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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

X 12/3/87

LOK SABHA

The following Bill was introduced in Lok Sabha on the 25th April, 1986:—

BILL No. 46 OF 1986

A Bill to consolidate and amend the law relating to Railways.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Railways Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*1*) "authorised" means authorised by a railway administration;

(*2*) "carriage" means the carriage of passengers or goods by a railway administration;

(*3*) "classification" means the classification of commodities made under section 29 for the purpose of determining the rates to be charged for carriage of such commodities;

(4) "class rates" means the rates fixed for a class of commodity in the classification;

(5) "Commissioner" means the Chief Commissioner of Railway Safety or the Commissioner of Railway Safety appointed under section 5;

(6) "commodity" means a specific item of goods;

(7) "consignee" means the person named as consignee in a railway receipt;

(8) "consignment" means goods entrusted to a railway administration for carriage;

(9) "consignor" means the person, named in a railway receipt as consignor, by whom or on whose behalf goods covered by the railway receipt are entrusted to a railway administration for carriage;

(10) "demurrage" means the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention;

(11) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(12) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a railway receipt to pass the property in the goods mentioned in such receipt to a specified person;

(13) "fare" means the charge levied for the carriage of passengers;

(14) "ferry" includes a bridge of boats, pontoons or rafts a, swing bridge, a fly-bridge and a temporary bridge and the approaches to, and landing places of, a ferry;

(15) "forwarding note" means the document executed under section 62;

(16) "freight" means the charge levied for the carriage of goods including transhipment charges, if any;

(17) "General Manager" means the General Manager of a Zonal Railway appointed under section 4;

(18) "goods" includes animals;

(19) "Government railway" means a railway owned by the Central Government;

(20) "in transit" in relation to the carriage of goods by railway, means the period between the commencement and the termination of transit of such goods, and unless otherwise previously determined—

(a) transit commences as soon as the railway receipt is issued or the consignment is loaded, whichever is earlier;

(b) transit terminates on the expiry of the free time allowed for unloading of consignment from any rolling stock and where such unloading has been completed within such free time, transit terminates on the expiry of the free time allowed, for the removal of the goods from the railway premises;

(*21*) "level crossing" means an inter-section of a road with lines of rails at the same level;

(*22*) "luggage" means the goods of a passenger either carried by him in his charge or entrusted to a railway administration for carriage;

(*23*) "lump sum rate" means the rate mutually agreed upon between a railway administration and a consignor for the carriage of goods and for any service in relation to such carriage;

(*24*) "non-Government railway" means a railway other than a Government railway;

(*25*) "notification" means a notification published in the Official Gazette;

(*26*) "parcel" means goods entrusted to a railway administration for carriage by a passenger or a parcel train;

(*27*) "pass" means an authority given by the Central Government or a railway administration to a person allowing him to travel as a passenger, but does not include a ticket;

(*28*) "passenger" means a person travelling with a valid pass or ticket;

(*29*) "prescribed" means prescribed by rules made under this Act;

(*30*) "railway" means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes—

(*a*) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(*b*) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(*c*) all rolling stock, stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water works and water supply installations, staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(*d*) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hirede or worked by a railway; and

(*e*) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by a railway administration,

but does not include—

(*i*) a tramway wholly within a municipal area; and

(*ii*) lines of rails built in any exhibition ground, fair, park, or any other place solely for the purpose of recreation;

(*31*) "railway administration", in relation to—

(*a*) a Government railway, means the General Manager of a Zonal Railway; and

(*b*) a non-Government railway, means the person who is the owner or lessee of the railway or the person working the railway under an agreement;

(32) "railway receipt" means the receipt issued under section 63;

(33) "railway servant" means any person employed by the Central Government or by a railway administration in connection with the service of a railway;

(34) "rate" includes any fare, freight or any other charge for the carriage of any passenger or goods;

(35) "regulations" means the regulations made by the Railway Rates Tribunal under this Act;

(36) "rolling stock" includes locomotives, tenders, carriages, wagons, rail-cars, containers, trucks, trolleys and vehicles of all kinds moving on rails;

(37) "station to station rate" means a special reduced rate applicable to a specific commodity booked between specified stations;

(38) "ticket" includes a single ticket, a return ticket and a season ticket;

(39) "traffic" includes rolling stock of every description, as well as passengers and goods;

(40) "Tribunal" means the Railway Rates Tribunal constituted under section 31;

(41) "wharfage" means the charge levied on goods for not removing them from the railway after the expiry of the free time for such removal;

(42) "Zonal Railway" means a Zonal Railway constituted under section 3.

CHAPTER II

RAILWAY ADMINISTRATIONS

Zonal Railways.

3. (1) The Central Government may, for the purpose of the efficient administration of the Government railways, by notification, constitute such railways into as many Zonal Railways as it may deem fit and specify in such notification the names and headquarters of such Zonal Railways and the areas in respect of which they shall exercise jurisdiction.

(2) The Zonal Railways existing immediately before the commencement of this Act shall be deemed to be Zonal Railways constituted under sub-section (1).

(3) The Central Government may, by notification, declare any unit of the railways engaged in research, development, designing, construction or production of rolling stock, its parts or other equipment used on a railway, to be a Zonal Railway.

(4) The Central Government may, by notification, abolish any Zonal Railway or constitute any new Zonal Railway out of any existing Zonal Railway or Zonal Railways, change the name or headquarters of any Zonal Railway or determine the areas in respect of which a Zonal Railway shall exercise jurisdiction.

Appointment of General Manager.

4. (*1*) The Central Government shall, by notification, appoint a person to be the General Manager of a Zonal Railway.

(*2*) The general superintendence and control of a Zonal Railway shall vest in the General Manager.

CHAPTER III

COMMISSIONERS OF RAILWAY SAFETY

Appointment of Chief Commissioner of Railway Safety and Commissioners of Railway Safety.

5. The Central Government may appoint a person to be the Chief Commissioner of Railway Safety and such other persons as it may consider necessary to be the Commissioners of Railway Safety.

Duties of Commissioner.

6. The Commissioner shall—

(*a*) inspect any railway with a view to determine whether it is fit to be opened for the public carriage of passengers and report thereon to the Central Government as required by or under this Act;

(*b*) make such periodical or other inspections of any railway or of any rolling stock used thereon as the Central Government may direct;

(*c*) make an inquiry under this Act into the cause of any accident on a railway; and

(*d*) discharge such other duties as are conferred on him by or under this Act.

Powers of Commissioner.

7. Subject to the control of the Central Government, the Commissioner, whenever it is necessary so to do for any of the purposes of this Act, may—

(*a*) enter upon and inspect any railway or any rolling stock used thereon;

(*b*) by order in writing addressed to a railway administration, require the attendance before him of any railway servant and to require answers or returns to such enquiries as he thinks fit to make from such railway servant or from the railway administration; and

(*c*) require the production of any book, document or material object belonging to or in the possession or control of any railway administration which appears to him to be necessary to inspect.

Commissioner to be public servant.

45 of 1860.

8. The Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Facilities to be afforded to Commissioners.

9. A railway administration shall afford to the Commissioner all reasonable facilities for the discharge of the duties or for the exercise of the powers imposed or conferred on him by or under this Act.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF WORKS

Power of railway administrations to execute all necessary works.

10. Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Act and the provisions of any law for the acquisition of land for a public purpose or for companies, and subject also, in the case of a non-Government railway, to the provisions of any contract between the non-Government railway and the Central Government, a railway administration may, for the purposes of constructing or maintaining a railway—

(*a*) make or construct in or upon, across, under or over any lands, or any streets, hills, valleys, roads, railway, tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes, oil-pipes, sewers, electric supply lines, or telegraph lines, such temporary or permanent inclined planes, arches, tunnels culverts, embankments, aquaducts, bridges, roads, lines of rails, ways, passages, conduits, drains, piers, cuttings and fences, in-take wells, tube wells, dams, river training and protection works as it thinks proper;

(*b*) alter the course of any rivers, brooks, streams or other water courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter either temporarily or permanently, the course of any rivers, brooks, streams or other water courses or any roads, streets or ways, or raise or sink the level thereof, in order to carry them more conveniently over or under or by the side of the railway;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(*d*) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery apparatus and other works and conveniences as the railway administration thinks proper;

(*e*) alter, repair, or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead;

(*f*) erect, operate, maintain or repair any telegraph and telephone lines in connection with the working of the railway; and

(*g*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

Power to alter the position of pipe, electric supply line, drain or sewer, etc.

11. (*1*) A railway administration may, for the purpose of exercising the powers conferred on it by this Act, alter the position of any pipe for the supply of gas, water, oil or compressed air, or the position of any electric supply line, drain or sewer:

Provided that before altering the position of any such pipe, electric supply line, drain or sewer, the railway administration shall give a notice indicating the time at which the work of such alteration shall commence, to the local authority or other person having control over the pipe, electric supply line, drain or sewer.

(2) The railway administration shall execute the work referred to in sub-section (1) to the reasonable satisfaction of the local authority or the person receiving the notice under the proviso to sub-section (1).

Protection for Government property.

12. Nothing in sections 10 and 11 shall authorise—

(a) a railway administration of the Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, a State Government without the consent of that Government; and

(b) a railway administration of a non-Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, the Central Government or a State Government, without the consent of the Government concerned.

Temporary entry upon land to remove obstruction to repair or to prevent accident.

13. (1) Where in the opinion of a railway administration—

(a) there is imminent danger that any tree, post or structure may fall on the railway so as to obstruct the movement of rolling stock;

(b) any tree, post, structure or light obstructs the view of any signal provided for movement of rolling stock; or

(c) any tree, post or structure obstructs any telephone or telegraph line maintained by it,

it may take such steps as may be necessary to avert such danger or remove such obstruction and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(2) Where in the opinion of a railway administration—

(a) a slip or accident has occurred; or

(b) there is apprehension of any slip or accident to any cutting, embankment or other work on a railway,

it may enter upon any lands adjoining the railway and do all such works as may be necessary for the purpose of repairing or preventing such slip or accident and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(3) The Central Government may, after considering the report under sub-section (1) or sub-section (2), in the interest of public safety, by order, direct the railway administration that further action under sub-section (1) or sub-section (2) shall be stopped or the same shall be subject to such conditions as may be specified in that order.

Payment of amount for damage or loss.

14. (1) No suit shall lie against a railway administration to recover any amount for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter.

(2) A railway administration shall pay or tender payment for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter, and in case of a dispute as to the sufficiency of any amount so paid or tendered or as to the persons entitled to receive the amount, it shall immediately refer the dispute to the decision of the District Judge of the district and his decision thereon shall be final.

(3) The reference under sub-section (2) shall be treated as an appeal under section 96 of the Code of Civil Procedure, 1908 and shall be disposed of accordingly. 5 of 1908.

(4) Where any amount has been paid as required by sub-section (2) the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liability to any person whatsoever in respect of any amount so paid.

Accommodation works.

15. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) such crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the State Government, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and

(b) all necessary arches, tunnels, culverts, drains, water sources or other passages, over, under or by the sides of the railway, of such dimensions as will, in the opinion of the State Government, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as it was before the making of the railway or as nearly as possible.

(2) Subject to the other provisions of this Act, the works specified in clauses (a) and (b) of sub-section (1) shall be made at the cost of the railway administration during or immediately after the laying out or formation of the railway over the lands traversed and in such a manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works:

Provided that—

(a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners or occupiers of the lands have been paid compensation in consideration of their not requiring the said works to be made;

(b) save as hereinafter in this Chapter, provided, no railway administration shall be liable to execute any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) where a railway administration has provided suitable accommodation work for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the railway administration shall not be compelled to provide any other accommodation work for the crossing of such road or stream.

(3) The State Government may specify a date for the commencement of any work to be executed under sub-section (1) and if within three months next after that date, the railway administration fails to commence

the work or having commenced it, fails to proceed diligently to execute it, the Central Government shall, on such failure being brought to its notice by the State Government, issue such directions to the railway administration as it thinks fit.

Explanation.—For the purposes of this section, the expression "lands" shall include public roads.

Power of owner, occupier, State Government or local authority to cause additional accommodation works to be made.

16. (*1*) If an owner or occupier of any land affected by a railway considers the works made under section 15 to be insufficient for the use of the land, or if the State Government or a local authority desires to construct a public road or other work across, under or over a railway, such owner or occupier, or, as the case may be, the State Government or the local authority, may, at any time, require the railway administration to make at the expense of the owner or occupier or of the State Government or the local authority, as the case may be, such further accommodation works as are considered necessary and are agreed to by the railway administration.

(*2*) The accommodation works made under sub-section (*1*) shall be maintained at the cost of the owner or occupier of the land, the State Government or the local authority, at whose request the works were made.

(*3*) In the case of any difference of opinion between the railway administration and the owner or occupier, the State Government or the local authority, as the case may be, in relation to—

(*i*) the necessity of such further accommodation works; or

(*ii*) the expenses to be incurred on the construction of such further accommodation works; or

(*iii*) the quantum of expenses on the maintenance of such further accommodation works.

it shall be referred to the Central Government whose decision thereon shall be final.

Fences, gates and bars.

17. The Central Government may, within such time as may be specified by it or within such further time, as it may grant, require that—

(*a*) boundary marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(*b*) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at level crossings;

(*c*) persons be employed by a railway administration to open and shut gates, chains or bars.

Over-bridges and under-bridges.

18. (*1*) Where a railway administration has constructed lines of rails across a public road at the same level, the State Government or the local authority maintaining the road, may, at any time, in the interest of public safety, require the railway administration to take the road either under or over the railway by means of a bridge or arch with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as may, in the circumstances of the case, appear to the State Government or the local authority

maintaining the road to be best adapted for removing or diminishing the danger arising from the level crossing.

(2) The railway administration may require the State Government or the local authority, as the case may be, as a condition of executing any work under sub-section (1), to undertake to pay the whole of the cost of the work and the expense of maintaining the work, to the railway administration or such proportion of the cost and expenses as the railway administration thinks just and reasonable.

(3) In the case of any difference of opinion between the railway administration and the State Government or the local authority, as the case may be, over any of the matters mentioned in sub-sections (1) and (2), it shall be referred to the Central Government whose decision thereon shall be final.

CHAPTER V

OPENING OF RAILWAYS

Sanction of the Central Government to the opening of railway.

19. No railway shall be opened for the public carriage of passengers until the Central Government has, by order, sanctioned the opening thereof for that purpose.

Formalities to be complied with before giving sanction to the opening of a railway.

20. (1) The Central Government shall, before giving its sanction to the opening of a railway under section 19, obtain a report from the Commissioner that—

(a) he has made a careful inspection of the railway and the rolling stock that may be used thereon;

(b) the moving and fixed dimensions as laid down by the Central Government have not been infringed;

(c) the structure of lines of rails, strength of bridges, general structural character of the works and the size of, and maximum gross load upon, the axles of any rolling stock, comply with the requirements laid down by the Central Government; and

(d) in his opinion, the railway can be opened for the public carriage of passengers without any danger to the public using it.

(2) If the Commissioner is of the opinion that the railway cannot be opened without any danger to the public using it, he shall, in his report, state the grounds therefor, as also the requirements which, in his opinion, are to be complied with before sanction is given by the Central Government.

(3) The Central Government, after considering the report of the Commissioner, may sanction the opening of a railway under section 19 as such or subject to such conditions as may be considered necessary by it for the safety of the public.

Sections 19 and 20 to apply to the opening of certain works.

21. The provisions of sections 19 and 20 shall apply to the opening of the following works if they form part of, or are directly connected with, a railway used for the public carriage of passengers and have been cons-

tructed subsequent to the giving of a report by the Commissioner under section 20, namely:—

(a) opening of additional lines of railway and deviation lines;

(b) opening of stations, junctions and level crossings;

(c) re-modelling of yards and re-building of bridges;

(d) introduction of electric traction; and

(e) any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 19 and 20 apply or are extended by this section.

Temporary suspension of traffic.

22. When an accident has occurred on a railway resulting in a temporary suspension of traffic, and either the original lines of rails and works have been restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication, the original lines of rails and works so restored, or the temporary diversion, as the case may be, may, without prior inspection by the Commissioner, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored lines of rails and works, or of the temporary diversion will not in his opinion be attended with danger to the public; and

(b) a notice by telegraph of the opening of the lines of rails and works or the diversion shall be sent, as soon as may be, to the Commissioner.

Power to close railway opened for the public carriage of passengers.

23. Where, after the inspection of any railway opened and used for the public carriage of passengers or any rolling stock used thereon, the Commissioner is of the opinion that the use of the railway or of any rolling stock will be attended with danger to the public using it, the Commissioner shall send a report to the Central Government who may thereupon direct that—

(i) the railway be closed for the public carriage of passengers; or

(ii) the use of the rolling stock be discontinued; or

(iii) the railway or the rolling stock may be used for the public carriage of passengers subject to such conditions as it may consider necessary for the safety of the public.

Re-opening of closed railway.

24. When the Central Government has, under section 23, directed the closure of a railway or the discontinuance of the use of any rolling stock—

(a) the railway shall not be re-opened for the public carriage of passengers until it has been inspected by the Commissioner and its re-opening is sanctioned in accordance with the provisions of this Chapter; and

(b) the rolling stock shall not be used until it has been inspected by the Commissioner and its re-use is sanctioned in accordance with the provisions of this Chapter.

Use of rolling stock.

25. A railway administration may use such rolling stock as it may consider necessary for the construction, operation and working of a railway:

Provided that before using any rolling stock of a design or type different from that already running on any section of the railway, the previous sanction of the Central Government shall be obtained for such use.

Delegation of powers.

26. The Central Government may, by notification, direct that any of its powers or functions under this Chapter, except section 27, or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by a Commissioner.

Power to make rules in respect of matters in this Chapter.

27. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the duties of a railway administration and the Commissioner in regard to the opening of a railway for the public carriage of passengers;

(*b*) the arrangements to be made for and the formalities to be complied with before opening a railway for the public carriage of passengers;

(*c*) for regulating the mode in which, and the speed at which rolling stock used on railways is to be moved or propelled; and

(*d*) the cases in which and the extent to which the procedure provided in this chapter may be dispensed with.

CHAPTER VI

FIXATION OF RATES

Power to fix rates.

28. (*1*) The Central Government may, from time to time, by general or special order fix, for the carriage of passengers and goods, rates for the whole or any part of the railway and different rates may be fixed for different classes of goods and specify in such order the condition subject to which such rates shall apply.

(*2*) The Central Government may, by a like order, fix the rates of any other charges incidental to or connected with such carriage including demurrage and wharfage for the whole or any part of the railway and specify in the order the conditions subject to which such rates shall apply.

Power to classify commodities or alter rates.

29. The Central Government shall have power to—

(*a*) classify or reclassify any commodity for the purpose of determining the rates to be charged for the carriage of such commodities; or

(b) increase or reduce the class rates and other charges.

Power of railway administration to charge certain rates.

30. Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any commodity and subject to such conditions as may be specified,—

(*a*) quote a station to station rate; or

(*b*) increase or reduce or cancel, after due notice in the manner determined by the Central Government, a station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal; or

(*c*) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal; or

(*d*) charge any lump sum rate.

CHAPTER VII

RAILWAY RATES TRIBUNAL

Constitution of the Railway Rates Tribunal.

31. (*1*) There shall be a Tribunal, to be called the Railway Rates Tribunal, for the purpose of discharging the functions specified in this Chapter.

(*2*) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

(*3*) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is, or has been, a Judge of the Supreme Court or of a High Court and of the other two members one shall be a person, who, in the opinion of the Central Government, has special knowledge of the commercial, industrial or economic conditions of the country, and the other shall be a person, who, in the opinion of the Central Government, has special knowledge and experience of the commercial working of the railways.

(*4*) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be prescribed.

(*5*) In case the Chairman or any other member is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government may appoint another person to act in his place during his absence.

(*6*) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(*7*) Subject to the provisions of sub-sections (*5*) and (*6*), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as may be prescribed.

(*8*) No act or proceeding of the Tribunal shall be invalidated merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Tribunal; or

(*b*) any defect in the appointment of a person acting as a Chairman or other member of the Tribunal.

Staff of the Tribunal.

32. (*1*) The Tribunal may, with the previous approval of the Central Government, appoint such officers and employees as it considers necessary for the efficient discharge of its functions under this Chapter.

(2) The terms and conditions of service of the officers and employees of the Tribunal shall be such as may be determined by regulations.

Sittings of the Tribunal.

33. The Tribunal may sit at such place or places as it may find convenient for the transaction of its business.

Complaints against a railway administration.

34. Any complaint that a railway administration—

(*a*) is contravening the provisions of section 88;

(*b*) is charging for the carriage of any commodity between two stations a rate which is unreasonable; or

(*c*) is levying any other charge which is unreasonable;

may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

Matters not within the jurisdiction of the Tribunal.

35. Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of—

(*a*) classification or re-classification of any commodity;

(*b*) fixation of wharfage and demurrage charges (including conditions attached to such charges);

(*c*) fares levied for the carriage of passengers and freight levied for the carriage of luggage, parcels, railway material and military traffic; and

(*d*) lump sum rates.

Powers of the Tribunal.

36. (*1*) The Tribunal shall have the powers of a civil court under the Code of Civil Procedure, 1908 for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery, and production of documents, issuing commissions for the examination of witnesses and of review and shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1973 and any reference in such section or Chapter to the presiding officer of a court shall be deemed to include a reference to the Chairman of the Tribunal. 5 of 1908. 2 of 1974.

(2) The Tribunal shall also have power to pass such interim and final orders as the circumstances may require, including orders for the payment of costs.

Reference of the Tribunal.

37. Notwithstanding anything contained in section 35, the Central Government may make a reference to the Tribunal in respect of any of the matters specified in that section and where any such reference is made in respect of any such matter, the Tribunal shall make an inquiry into that matter and submit its report thereon to the Central Government.

Assistance by the Central Government.

38. (*1*) The Central Government shall give to the Tribunal such assistance as it may require and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to any matter before the Tribunal.

(*2*) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

Burden of proof, etc.

39. In the case of any complaint under clause (*a*) of section 34,—

(*a*) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area, lower rates for the same or similar goods or lower charges for the same or similar services than it charges to other traders in any other local area, the burden of proving that such lower rate or charge does not amount to an undue preference, shall lie on the railway administration;

(*b*) in deciding whether a lower rate or charge does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower rate or charge is necessary in the interests of the public.

Decision etc., of the Tribunal.

40. The decisions or orders of the Tribunal shall be by a majority of the members sitting and shall be final.

Bar of jurisdiction of courts.

41. No suit shall be instituted or proceeding taken in respect of any matter which the Tribunal is empowered to deal with or decide, under this Chapter.

Reliefs which the Tribunal may grant.

42. In the case of any complaint made under clause (*b*) or clause (*c*) of section 34, the Tribunal may—

(*i*) fix such rate or charge as it considers reasonable from any date as it may deem proper, not being a date earlier to the date of the filing of the complaint;

(*ii*) direct a refund of amount, if any, as being the excess of the rate or charge fixed by the Tribunal under clause (*i*).

Revision of decisions given by the Tribunal.

43. Where a railway administration considers that since the date of decision by the Tribunal, there has been a material change in the circumstances on which it was based, it may, after the expiry of one year from such date, make an application to the Tribunal and the Tribunal may, after making such inquiry as it considers necessary, vary or revoke the decision.

Execution of decisions or orders of the Tribunal.

44. The Tribunal may transmit any decision or order made by it to a civil court having local jurisdiction and such civil court shall execute the decision or order as if it were a decree made by that court.

Report of the Central Government.

45. The Tribunal shall present annually a report to the Central Government of all its proceedings under this Chapter.

Power of the Tribunal to make regulations.

46. (*1*) The Tribunal may, with the previous approval of the Central Government, make regulations consistent with this Act and rules generally to regulate its procedure for the effective discharge of its functions under this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions of service of the officers and employees of the Tribunal;

(*b*) the award of costs by the Tribunal in any proceedings before it;

(*c*) the reference of any question to a member or to an officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;

(*d*) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;

(*e*) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal;

(*f*) a scale of fees for and in connection with the proceedings before the Tribunal.

CHAPTER VIII

CARRIAGE OF PASSENGERS

Exhibition of certain timings and tables of fares at stations.

47. (*1*) Every railway administration shall cause to be pasted in a conspicuous and accessible place at every station in Hindi and in English and also in the regional language commonly in use in the area where the station is situated—

(*i*) a table of times of arrival and departure of trains which carry passengers and stop at that station, and

(*ii*) list of fares from such station to every place for which card-tickets are ordinarily issued to passengers at that station.

(*2*) At every station where tickets are issued to passengers, a copy of the time table in force shall be kept in the office of the station master.

Supply of tickets on payment of fare.

48. (*1*) Any person desirous of travelling on a railway shall, upon payment of the fare, be supplied with a ticket by a railway servant or an agent authorised in this behalf and such ticket shall contain the following particulars, namely:—

(*i*) the date of issue;

(*ii*) the class of carriage;

(*iii*) the place from and the place to which it is issued; and

(*iv*) the amount of the fare.

(*2*) Every railway administration shall display the hours during which booking windows at a station shall be kept open for the issue of tickets to passengers.

(3) The particulars required to be specified on a ticket under clauses (*ii*) and (*iii*) of sub-section (*1*) shall,—

(*a*) if it is for the lowest class of carriage, be set forth in Hindi, English and the regional language commonly in use at the place of issue of the ticket; and

(*b*) if it is for any other class of carriage, be set forth in Hindi and English:

Provided that where it is not feasible to specify such particulars in any such language due to mechanisation or any other reason, the Central Government may exempt such particulars being specified in that language.

Provision for case in which ticket is issued for class or train not having accommodation for additional passengers.

49. (*1*) A ticket shall be deemed to have been issued subject to the conditions of availability of accommodation in the class of carriage and the train for which the ticket is issued.

(*2*) If no accommodation is available in the class of carriage for which a ticket is issued, and the holder thereof travels in a carriage of a lower class, he shall, on returning such ticket, be entitled to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travels.

Cancellation of ticket and refund.

50. If a ticket is returned for cancellation, the railway administration shall cancel the same and refund such amount as may be prescribed.

Prohibition against transfer of certain tickets.

51. A ticket issued in the name of a person shall be used only by that person:

Provided that nothing contained in this section shall prevent mutual transfer of a seat or berth by passengers travelling by the same train:

Provided further that a railway servant authorised in this behalf may permit change of name of a passenger having reserved a seat or berth subject to such circumstances as may be prescribed.

Exhibition and surrender of passes and tickets.

52. Every passenger shall, on demand by any railway servant authorised in this behalf, present his pass or ticket to such railway servant for examination during the journey or at the end of the journey and surrender such ticket—

(*a*) at the end of the journey, or

(*b*) if such ticket is issued for a specified period, on the expiration of such period.

Prohibition against travelling without pass or ticket.

53. (*1*) No person shall enter or remain in any carriage or a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket or obtained permission of a railway servant authorised in this behalf for such travel.

(*2*) A person obtaining permission under sub-section (*1*) shall ordinarily get a certificate from the railway servant referred to in that sub-section that he has been permitted to travel in such carriage on condition that he subsequently pays the fare payable for the distance to be travelled.

Power to refuse to carry persons suffering from infectious or contagious diseases

54. (*1*) A person suffering from such infectious or contagious diseases, as may be prescribed, shall not enter or remain in any carriage on a railway or travel in a train without the permission of a railway servant authorised in this behalf.

(*2*) The railway servant giving permission under sub-section (*1*), shall arrange for the separation of the person suffering from such disease from other persons in the train and such person shall be carried in the train subject to such other conditions as may be prescribed.

Maximum number of passengers for each compartment.

55. Subject to the approval of the Central Government, every railway administration shall fix the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in Hindi, English and also in one or more of the regional languages commonly in use in the areas served by the railway.

Earmarking of compartment, etc., for ladies.

56. Every railway administration shall, in every train carrying passengers, earmark for the exclusive use of females, one compartment or such number of berths or seats, as the railway administration may think fit, at least of the lowest class.

Communication between passengers and railway servant in charge of trains.

57. A railway administration shall provide and maintain in every train carrying passengers, such efficient means of communication between the passengers and the railway servants in charge of the trains as may be approved by the Central Government:

Provided that where the railway administration is satisfied that the means of communication provided in a train are being misused, it may cause such means to be disconnected in that train for such period as it thinks fit:

Provided further that the Central Government may specify the circumstances under which a railway administration may be exempted from providing such means of communication in any train.

Power to make rules in respect of matters in this Chapter.

58. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the accommodation (including the reservation of seats or berths in trains) to passengers;

(*b*) the amount of refund for the cancellation of a ticket;

(*c*) the circumstances under which change of names of passengers, having reserved seats or berths, may be permitted;

(*d*) the carriage of luggage and the conditions subject to which luggage may be kept in the cloak rooms at the stations;

(*e*) diseases which are infectious or contagious;

(*f*) the conditions subject to which a railway administration may carry passengers suffering from infectious or contagious diseases and the manner in which carriages used by such passengers may be disinfected;

(*g*) generally, for regulating the travelling upon and the use, working and management of the railways.

(*3*) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which shall not exceed one hundred and fifty rupees.

(*4*) Every railway administration shall keep at every station on its railway a copy of all the rules made under this section and shall also allow any person to inspect it free of charge at all reasonable hours.

CHAPTER IX

CARRIAGE OF GOODS

Maintenance of rate-books, etc., for carriage of goods.

59. Every railway administration shall maintain, at each station and at such other places where goods are received for carriage, the rate-books or other documents which shall contain the rate authorised for the carriage of goods from one station to another and make them available for the reference of any person during all reasonable hours without payment of any fee.

Conditions for receiving, etc., of goods.

60. (*1*) A railway administration may impose conditions, not inconsistent with this Act or any rules made thereunder, with respect to the receiving, forwarding, carrying or delivering of any goods.

(2) A railway administration shall maintain, at each station and at such other places where goods are received for carriage, a copy of the conditions for the time being in force under sub-section (*1*) and make them available for the reference of any person during all reasonable hours without payment of any fee.

Provision of risk rates.

61. (*1*) Where any goods are entrusted to a railway administration for carriage such carriage shall, except where owner's risk rate is applicable in respect of such goods, be at railway risk rate.

(*2*) Any goods, for which owner's risk rate and railway risk rate are in force may be entrusted for carriage at either of the rates and if no rate is opted, the goods shall be deemed to have been entrusted at owner's risk rate.

Forwarding note.

62. Every person entrusting any goods to a railway administration for carriage shall execute a forwarding note in such form as may be specified by the Central Government:

Provided that no forwarding note shall be executed in the case of such goods as may be specified by the Central Government.

Railway receipt.

63. (*1*) A railway administration shall—

(*a*) in a case where the goods are to be loaded by a person entrusting such goods, on the completion of such loading; and

(*b*) in any other case, on the acceptance of the goods by it,

issue a railway receipt in such form as may be specified by the Central Government.

(*2*) A railway administration shall not be responsible for the correctness of the weight, description or classification of goods or the number of packages mentioned in the railway receipt unless a certificate to that effect is recorded in the railway receipt by a railway servant authorised in this behalf.

Power to require statement relating to the description of goods.

64. (*1*) The owner or a person having charge of any goods which are brought upon a railway for the purposes of carriage by railway, and the consignee or the endorsee of any consignment shall, on the request of any railway servant authorised in this behalf, deliver to such railway servant a statement in writing signed by such owner or person or by such consignee or endorsee, as the case may be, containing such description of the goods as would enable the railway servant to determine the rate for such carriage.

(*2*) If such owner or person refuses or neglects to give the statement as required under sub-section (*1*) and refuses to open the package containing the goods, if so required by the railway servant, it shall be open to the railway administration to refuse to accept such goods for carriage unless such owner or person pays for such carriage the highest rate for any class of goods.

(*3*) If the consignee or endorsee refuses or neglects to give the statement as required under sub-section (*1*) and refuses to open the package containing the goods, if so required by the railway servant, it shall be open to the railway administration to charge in respect of the carriage of the goods the highest rate for any class of goods.

(*4*) If the statement delivered under sub-section (*1*) is materially false with respect to the description of any goods to which it purports to relate, the railway administration may charge in respect of the carriage of such goods such rate, not exceeding double the highest rate for any class of goods as may be specified by the Central Government.

(*5*) If any difference arises between a railway servant and such owner or person, the consignee or the endorsee, as the case may be, in respect of the description of the goods for which a statement has been delivered under sub-section (*1*), the railway servant may detain and examine the goods.

(6) Where any goods have been detained under sub-section (5) for examination, the cost of such detention and examination shall be borne by such owner or person, the consignee or the endorsee, as the case may be, and the railway administration shall not be liable for any loss, damage or deterioration which may be caused by such detention or examination.

Carriage of dangerous or offensive goods.

65. (1) No person shall take with him on a railway, or require a railway administration to carry such dangerous or offensive goods, as may be prescribed, except in accordance with the provisions of this section.

(2) No person shall take with him on a railway the goods referred to in sub-section (1) unless he gives a notice in writing of their dangerous or offensive nature to the railway servant authorised in this behalf.

(3) No person shall entrust the goods referred to in sub-section (1) to a railway servant authorised in this behalf for carriage unless he distinctly marks on the outside of the package containing such goods their dangerous or offensive nature and gives a notice in writing of their dangerous or offensive nature to such railway servant.

(4) If any railway servant has reason to believe that goods contained in a package are dangerous or offensive and notice as required under sub-section (2) or sub-section (3), as the case may be, in respect of such goods is not given, he may cause such package to be opened for the purpose of ascertaining its contents.

(5) Notwithstanding anything contained in this section, any railway servant may refuse to accept any dangerous or offensive goods for carriage or stop, in transit, such goods or cause the same to be removed, as the case may be, if he has reason to believe that the provisions of this section for such carriage are not complied with.

(6) Nothing in this section shall be construed to derogate from the provisions of the Indian Explosives Act, 1884, or any rule or order made under that Act, and nothing in sub-sections (4) and (5) shall be construed to apply to any goods entrusted for carriage by order or on behalf of the Government or to any goods which a soldier, sailor, airman or any other officer of the armed forces of the Union or a police officer or a member of the Territorial Army or of the National Cadet Corps may take with him on a railway in the course of his employment or duty as such.

4 of 1884.

Carriage of animals suffering from infectious or contagious diseases.

66. A railway administration shall not be bound to carry any animal suffering from such infectious or contagious disease as may be prescribed.

Deviation of route.

67. Where due to any cause beyond the control of a railway administration or due to congestion in the yard or any other operational reasons, goods are carried over a route other than the route by which such goods are booked, the railway administration shall not be deemed to have committed a breach of the contract of carriage by reason only of the deviation of the route.

Prohibition of undue preference.

68. A railway adminstration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in the carriage of goods.

Power to give directions in regard to carriage of certain goods.

69. (*1*) The Central Government may, if it is of the opinion that it is necessary in the public interest so to do, by general or special order, direct any railway administration—

(*a*) to give special facilities for, or preference to, the carriage of such goods or class of goods consigned by or to the Central Government or the Government of any State or of such other goods or class of goods, as may be specified in the order;

(*b*) to carry any goods or class of goods by such route or routes and at such rates as may be specified in the order;

(*c*) to restrict or refuse acceptance of such goods or class of goods at or to such station for carriage as may be specified in the order.

(*2*) Any order made under sub-section (*1*) shall cease to have effect after the expiration of a period of one year from the date of such order, but may, by a like order, be renewed from time to time for such period not exceeding one year at a time as may be specified in the order.

(*3*) Notwithstanding anything contained in this Act, every railway administration shall be bound to comply with any order given under sub-section (*1*) and any action taken by a railway administration in pursuance of any such order shall not be deemed to be a contravention of section 68.

Maximum carrying capacity for wagons and trucks.

70. (*1*) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck.

(*2*) Subject to the limit fixed under sub-section (*1*), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit in words and figures the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(*3*) Every person owning a wagon or truck which passes over a railway shall determine and exhibit the normal carrying capacity for the wagon or truck in the manner specified in sub-section (*2*).

(*4*) Notwithstanding anything contained in sub-section (2) or sub-section (*3*), where a railway administration considers it necessary or expedient so to do in respect of any wagon or truck carrying any specified class of goods or any class of wagon or truck of any specified type, it may vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and subject to such conditions as it may think fit to impose, determine for the wagon or truck or class of wagons or trucks such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks:

Provided that in no case, the gross weight of such wagon or truck or such class of wagons or trucks shall exceed the limit fixed under sub-section (*1*) for the class of axle under the wagon or truck.

Punitive charge for overloading a wagon.

71. Where a person loads goods in a wagon beyond its permissible carrying capacity as exhibited under sub-section (*2*), or sub-section (*3*), or notified under sub-section (*4*), of section 70, a railway administration may, in addition to the freight and other charges, recover from the consignor, the consignee or the endorsee, as the case may be, charges by way of penalty at such rates, as may be prescribed, before the delivery of the goods:

Provided that it shall be lawful for the railway administration to unload the goods loaded beyond the capacity of the wagon, if detected at the forwarding station or at any place before the destination station and to recover the cost of such unloading and any charge for the detention of any wagon on this account.

Passing of property in the goods covered by railway receipt.

72. The property in the consignment covered by a railway receipt shall pass to the consignee or the endorsee, as the case may be, on the delivery of such railway receipt to him and he shall have all the rights and liabilities of the consignor.

Section 72 not to affect right of stoppage in transit or claims for freight.

73. Nothing contained in section 72 shall prejudice or affect—

(*a*) any right of the consignor for stoppage of goods in transit as an unpaid vendor (as defined under the Sale of Goods Act, 1930) on his written request to the railway administration; 9 of 1930.

(*b*) any right of the railway to claim freight from the consignor; or

(*c*) any liability of the consignee or the endorsee, referred to in that section, by reason of his being such consignee or endorsee.

Surrender of railway receipt.

74. The railway administration shall deliver the consignment under a railway receipt only on the surrender of the railway receipt:

Provided that in case the railway receipt is not forthcoming, the consignment may be delivered to the person, entitled in the opinion of the railway administration to receive the goods, in such manner as may be prescribed.

Power of railway administration to deliver goods or sale proceeds thereof in certain cases.

75. Where no railway receipt is forthcoming and any consignment or the sale proceeds of any consignment are claimed by two or more persons, the railway administration may withhold delivery of such consignment or sale proceeds, as the case my be, and shall deliver such consignment or sale proceeds to the person entitled in its opinion to receive the same in such manner as may be prescribed.

Power to measure, weigh, etc.

76. Notwithstanding anything contained in the railway receipt, the railway administration may, before the delivery of the consignment, have the right to—

(*i*) re-measure, re-weigh or re-classify any consignment;

(*ii*) re-calculate the freight and other charges; and

(*iii*) correct any other error or collect any amount that may have been omitted to be charged.

Weighment of consignment on the request of the consignee or endorsee.

77. (*1*) A railway administration may, on a request made by the consignee or endorsee, allow weighment of the consignment subject to such conditions and on payment of such charges as may be prescribed:

Provided that except in cases where a railway servant authorised in this behalf considers it necessary so to do, no such weighment shall be allowed in cases of goods booked at owner's risk rate or goods which are perishable and are likely to lose weight in transit:

Provided further that no request for weighment of consignment in wagon load shall be entertained under this sub-section, if,—

(*a*) weighment is not feasible due to congestion in the yard or other operational reasons; or

(*b*) in the opinion of a railway servant authorised in this behalf, circumstances exist which do not warrant such weighment.

(*2*) Where a request for weighment is allowed by the railway administration, the consignee or the endorsee shall pay such charges as may be prescribed and the demurrage charges, if any.

Liability of railway administration for wrong delivery.

78. Where railway administration delivers the consignment to the person who produces the railway receipt, it shall not be responsible for any wrong delivery on the ground that such person is not entitled thereto or that the endorsement on the railway receipt is forged or otherwise defective.

Open delivery of consignments.

79. Where the consignment arrives in a damaged condition or shows signs of having been tampered with and the consignee or the endorsee demands open delivery, the railway administrtion shall give open delivery in such manner as may be prescribed.

Partial delivery of consignments.

80. (*1*) The consignee or endorsee shall, as soon as the consignment or part thereof is ready for delivery, take delivery of such consignment or part thereof notwithstanding that such consignment or part thereof is damaged.

(*2*) In the case of partial delivery under sub-section (*1*), the railway administration shall furnish a partial delivery certificate, in such form as may be prescribed.

(*3*) If the consignee or endorsee refuses, to take delivery under sub-section (*1*), the consignment or part thereof shall be subject to wharfage charges beyond the time allowed for removal.

Lien for freight or any other sum due.

81. If the consignor, the consignee or the endorsee fails to pay any freight or other charges due from him in respect of any consignment, the railway administration may detain such consignment or part thereof or, if such consignment is delivered, it may detain any other consignment of such person which is in, or thereafter comes into, its possession.

(*2*) The railway administration may, if the consignment detained under sub-section (*1*) is—

(*a*) perishable in nature, sell at once; or

(*b*) not perishable in nature,

sell, by public auction, such consignment or part thereof, as may be necessary to realise a sum equal to the freight or other charges:

Provided that where a railway administration for reasons to be recorded in writing is of the opinion that it is not expedient to hold the auction, such consignment or part thereof may be sold in such manner as may be prescribed.

(3) The railway administration shall give a notice of not less than seven days of the public auction under clause (b) of sub-section (2) in one or more local newspapers or where there are no such newspapers in such manner as may be prescribed.

(4) The railway administration may, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus of such proceeds and the part of the consignment, if any, shall be rendered to the person entitled thereto.

Unclaimed consignment.

82. (1) If any person fails to take delivery of—

(a) any consignment, or

(b) the consignment released from detention made under sub-section (1) of section 81; or

(c) any remaining part of the consignment under sub-section (2) of section 81,

such consignment shall be treated as unclaimed.

(2) The railway administration may,—

(a) in the case of an unclaimed consignment which is perishable in nature, sell such consignment in the manner provided in clause (a) of sub-section (2) of section 81; or

(b) in the case of an unclaimed consignment which is not perishable in nature, cause a notice to be served upon the consignee if his name and address are known, and upon the consignor if the name and address of the consignee are not known, requiring him to remove the goods within a period of seven days from the receipt thereof and if such notice cannot be served or there is a failure to comply with the requisition in the notice, sell such consignment in the manner provided in clause (b) of sub-section (2) of section 81.

(3) The railway administration shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds shall be rendered to the person entitled thereto.

Disposal of perishable consignments in certain circumstances.

83. (1) Where by reason of any flood, land-slip, breach of any lines of rails, collision between trains, derailment of, or other accident to a train or any other cause, traffic on any route is interrupted and there is no likelihood of early resumption of such traffic, nor is there any other reasonable route whereby traffic of perishable consignment may be diverted to prevent, loss or deterioration of, or damage to, such consignment, the railway administration may sell them in the manner provided in clause (a) of sub-section (2) of section 81.

(2) The railway administration shall, out of the sale proceeds received under sub-section (1), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds, shall be rendered to the person entitled thereto.

Sales under sections 81 to 83 not to affect the right to suit.

84. Notwithstanding anything contained in this Chapter, the right of sale under sections 81 to 83 shall be without prejudice to the right of the railway administration to recover by suit, any freight, charge, amount or other expenses due to it.

Power to make rules in respect of matters in this Chapter.

85. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) dangerous and offensive goods for the purposes of section 65;

(b) infectious or contagious diseases for the purposes of section 66;

(c) rates of penalty charges under section 71;

(d) the manner in which the consignment may be delivered without a railway receipt under section 74;

(e) the manner of delivery of consignment or the sale proceeds to the person entitled thereto under section 75;

(f) the conditions subject to which, and the charges payable for, weighment under section 77;

(g) the manner of giving open delivery under section 79;

(h) the form of partial delivery certificate under sub-section (2) of section 80;

(i) the manner of sale of consignment or part thereof under the proviso to sub-section (2) of section 81;

(j) the manner in which a notice under sub-section (3) of section 81 may be given;

(k) generally, for regulating the carriage of goods by the railways.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundered and fifty rupees.

(4) Every railway administration shall keep at each station a copy of the rules for the time being in force under this section, and shall allow any person to refer to it free of charge at all reasonable hours.

CHAPTER X

SPECIAL PROVISIONS AS TO GOODS BOOKED TO NOTIFIED STATIONS

Definitions

86. In this Chapter, unless the context otherwise requires,—

(a) "essential commodity" means an essential commodity as defined in clause (a) of section 2 of the Essential Commodities Act, 1955; 10 of 1955.

(b) "notified station" means a station declared to be a notified station under section 87;

(c) "State Government", in relation to a notified station, means the Government of the State in which such station is situated, or where such station is situated in a Union territory, the administrator of that Union territory appointed under article 239 of the Constitution.

Power to declare notified stations.

87. (*1*) The Central Government may, if it is satisfied that it is necessary that goods entrusted for carriage by train intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification, such railway station to be a notified station for such period as may be specified in the notification:

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:—

(*a*) the volume of traffic and the storage space available at such railway station;

(*b*) the nature and quantities of goods generally booked to such railway station;

(*c*) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;

(*d*) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons;

(*e*) such other factor (being relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance, but such period may, by notification, be extended from time to time by a period not exceeding six months on each occasion.

(*2*) If any person entrusting any goods to a railway administration to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation by registered post of the arrival of the goods at the notified station shall be given and pays the postage charges required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation accordingly.

(*3*) There shall be exhibited at a conspicuous place at each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold in accordance with the provisions of sub-section (*1*) of section 88 by public auction and the dates on which they would be so sold:

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(4) If the goods specified in any statement to be exhibited under sub-section (3) include essential commodities, the railway servant preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to:—

(a) the representative of the Central Government nominated by that Government in this behalf;

(b) the representative of the State Government, nominated by that Government in this behalf; and

(c) the District Magistrate within the local limits of whose jurisdiction the railway station is situated.

Disposal of unremoved goods at notified stations.

88. (1) If any goods entrusted for carriage to any notified station by a train intended solely for the carriage of goods are not removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell such goods by public auction and apart from exhibiting, in accordance with the provisions of sub-section (3) of section 87, a statement containing a description of such goods, it shall not be necessary to give any notice of such public auction, but the date on which such auction may be held under this sub-section may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed:

Provided that if at any time before the sale of such goods under this sub-section, the person entitled thereto pays the freight and other charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any goods which may be sold by public auction under sub-section (1) at a notified station, being essential commodities, are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the railway servant in-charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the railway servant to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the goods that such essential commodities have been transferred in compliance with such direction:

Provided that—

(a) such direction shall not be binding on such railway servant or the railway administration—

(i) if it has not been received by the railway servant sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or

(*ii*) if before the time appointed for such sale, the person entitled to such goods pays the freight and other charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or

(*iii*) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) is not credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards the price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(*b*) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955:

10 of 1955.

Provided that—

(*a*) in the case of any essential commodity being a food-stuff in respect whereof a notification issued under sub-section (*3A*) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (*iii*) and (*iv*) of that sub-section;

10 of 1955.

(*b*) in the case of an essential commodity being any grade or variety of foodgrains, edible oil seeds or edible oils in respect whereof no notification issued under sub-section (*3A*) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (*3B*) of that section;

10 of 1955.

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (*3A*) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (*3C*) of that section.

Explanation.—For the purposes of this clause, the expressions "producer" and "sugar" shall have the meanings assigned to these expressions in the *Explanation* to sub-section (*3C*) of section 3, and clause (*e*) of section 2 of the Essential Commodities Act, 1955, respectively.

10 of 1955.

Price to be paid to person entitled after deducting dues.

89. (*1*) Out of the proceeds of any sale of goods under sub-section (*1*) of section 88 or the price payable therefor under sub-section (*4*) of that section, the railway administration may retain a sum equal to the freight and other charges due in respect of such goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

(*2*) Notwithstanding anything contained in sub-section (*1*), the railway administration may recover by suit any such freight or charge or expenses referred to therein or balance thereof.

(*3*) Any goods sold under sub-section (*1*) of section 88 or transferred in compliance with the directions issued under sub-section (*2*) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (*1*), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

Power to make rules in respect of matters in this chapter.

90. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters nemely:—

(*a*) the factors to which the Central Government shall have regard under clause (*e*) of the first proviso to sub-section (*1*) of section 87;

(*b*) the form and manner in which an application may be made under sub-section (*2*) of section 87;

(*c*) the form in which a statement is required to be exhibited under sub-section (*3*) of section 87;

(*d*) the manner in which the dates of public auctions may be notified under sub-section (*1*) of section 88;

(*e*) the manner of crediting to the railway administration the price of goods referred to in sub-clause (*iii*) of clause (*a*) of the proviso to sub-section (*3*) of section 88.

CHAPTER XI

RESPONSIBILITIES OF RAILWAY ADMINISTRATIONS AS CARRIERS

General responsibility of a railway administration as carrier of goods.

91. Save as otherwise provided in this Act, a railway administration shall be responsible for the loss, destruction, damage or deterioration in transit, or non-delivery of any consignment, arising from any cause except the following, namely:—

(*a*) act of God;

(*b*) act of war;

(*c*) act of public enemies;

(*d*) arrest, restraint or seizure under legal process;

(*e*) orders or restrictions imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf;

(*f*) act or omission or negligence of the consignor or the consignee or the endorsee or the agent or servant of the consignor or the consignee or the endorsee;

(*g*) natural deterioration or wastage in bulk or weight due to inherent defect, quality or vice of the goods;

(*h*) latent defects;

(*i*) fire, explosion or any unforeseen risk:

Provided that even where such loss, destruction, damage, deterioration or non-delivery is proved to have arisen from any one or more of the aforesaid causes, the railway administration shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or non-delivery unless the railway administration further proves that it has used reasonable foresight and care in the carriage of the goods.

Goods to be loaded or delivered at a siding not belonging to a railway administration.

92. (*1*) Where goods are required to be loaded at a siding not belonging to a railway administration for carriage by railway, the railway administration shall not be responsible for any loss, destruction, damage or deterioration of such goods from whatever cause arising, until the wagon containing the goods has been placed at the specified point of interchange of wagons between the siding and the railway administration, and a railway servant authorised in this behalf has been informed in writing accordingly by the owner of the siding.

(*2*) Where any consignment is required to be delivered by a railway administration at a siding not belonging to a railway administration, the railway administration shall not be responsible for any loss, destruction, damage or deterioration or non-delivery of such consignment from whatever cause arising after the wagon containing the consignment has been placed at the specified point of interchange of wagons between the railway and the siding and the owner of the siding has been informed in writing accordingly by a railway servant authorised in this behalf.

Goods carried in open vehicles.

93. When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are, at the request of the consignor recorded in the forwarding note, entrusted for carriage by railway in open vehicles or vessels, or in vehicles or vessels which are defective or not fully covered, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried.

Delay or detention in transit.

94. A railway administration shall not be responsible for the loss, destruction, damage or deterioration of any consignment proved by the owner to have been caused by the delay or detention in their carriage if the railway administration proves that the delay or detention arose for reasons beyond its control or without negligence or misconduct on its part or on the part of any of its servants.

Traffic passing over rail ways in India and railways in foreign coun-tries.

95. Where in the course of carriage of any consignment from a place in India to a place outside India or from a place outside India to a place in India or from one place outside India to another place outside India or from one place in India to another place in India over any territory outside India, it is carried over the railways of any railway administration in India, the railway administration shall not be responsible under any of the provisions of this Chapter for the loss, destruction, damage or deterioration of the goods, from whatever cause arising, unless it is proved by the owner of the goods that such loss, destruction, damage or deterioration arose over the railway of the railway administration.

Goods carried at owner's risk rate.

96. Notwithstanding anything contained in section 91, a railway administration shall not be responsible for any loss, destruction, damage, deterioration or non-delivery in transit, of any consignment carried at owner's risk rate, from whatever cause arising, except upon proof that such loss, destruction, damage, deterioration or non-delivery was due to negligence or misconduct on its part or on the part of any of its servants.

Goods in defective condition or defec-tively packed.

97. (*1*) Notwithstanding anything contained in the foregoing provisions of this Chapter, when any goods entrusted to a railway administration for carriage—

(*a*) are in a defective condition as a consequence of which they are liable to damage, deterioration, leakage or wastage; or

(*b*) are either defectively packed or not packed in such manner as may be prescribed and as a result of such defective or improper packing are liable to damage, deterioration, leakage or wastage,

and the fact of such condition or defective or improper packing has been recorded by the consignor or his agent in the forwarding note, the railway administration shall not be responsible for any damage, deterioration, leakage or wastage or for the condition in which such goods are available for delivery at destination.

(*2*) When any goods entrusted to a railway adminstration for carriage are found on arrival at the destination station to have been damaged or to have suffered deterioration, leakage or wastage, the railway administration shall not be responsible for the damage, deterioration, leakage or wastage of the goods on proof by railway administration,—

(*a*) that the goods were, at the time of entrustment to the railway administration, in a defective condition, or were at that time either defectively packed or not packed in such manner as may be prescribed and as a result of which were liable to damage, deterioration, leakage or wastage; and

(*b*) that such defective condition or defective or improper packing was not brought to the notice of the railway administration or any of its servants at the time of entrustment of the goods to the railway administration for carriage by railway:

Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

Responsibility of a railway administration after termination of transit.

9 of 1872.

98. (*1*) A railway administration shall be responsible as a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, for the loss, destruction, damage, deterioration or non-delivery of any consignment up to a period of seven days after the termination of transit:

Provided that where the consignment is at owner's risk rate, the railway administration shall not be responsible as a bailee for such loss, destruction, damage, deterioration or non-delivery except on proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(*2*) The railway administration shall not be responsible in any case for the loss, destruction, damage, deterioration or non-delivery of any consignment arising after the expiry of a period of seven days after the termination of transit.

(*3*) Notwithstanding anything contained in the foregoing provisions of this section, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of perishable goods, animals, explosives and such dangerous or other goods as may be prescribed, after the termination of transit.

(*4*) Nothing in the foregoing provisions of this section shall affect the liability of any person to pay any demurrage or wharfage, as the case may be, for so long as the consignment is not unloaded from the railway wagons or removed from the railway premises.

Responsibility as carrier of luggage.

99. A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt therefor and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants.

Responsibility as a carrier of animals.

100. A railway administration shall not be responsible for any loss or destruction of, or injuries to, any animal carried by railway arising from fright or restiveness of the animal or from overloading of wagons by the consignor.

Exoneration from liability in certain cases.

101. Notwithstanding anything contained in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any consignment,—

(*a*) when such loss, destruction, damage, deterioration or non-delivery is due to the fact that a materially false description of the consignment is given in the statement delivered under sub-section (*1*) of section 64; or

(*b*) where a fraud has been practised by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee; or

(*c*) where it is proved by the railway administration to have been caused by, or to have arisen from—

(*i*) improper loading or unloading by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee;

(*ii*) riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause arising whether partial or general, or

(*d*) for any indirect or consequential loss or damage or for loss of particular market.

Extent of monetary liability in respect of any consignment.

102. (*1*) Where any consignment is entrusted to a railway administration for carriage by railway and the value of such consignment has not been declared as required under sub-section (*2*) by the consignor, the amount of liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of the consignment shall in no case exceed such amount calculated with reference to the weight of the consignment as may be prescribed, and where such consignment consists of an animal specified in column (*1*) of the Schedule, the liability shall not exceed the amount as specified in the corresponding entry in column (*2*) of the Schedule.

(*2*) Notwithstanding anything contained in sub-section (*1*), where the consignor declares the value of any consignment at the time of its entrustment to a railway administration for carriage by railway, and pays such percentage charge as may be prescribed on so much of the value of such consignment as is in excess of the liability of the railway administration as calculated or specified, as the case may be, under sub-section (*1*), the liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of such consignment shall not exceed the value so declared.

(*3*) The Central Government may, from time to time, by notification direct that such goods as may be specified in the notification shall not be accepted for carriage by railway unless the value of such goods is declared and percentage charge is paid as required under sub-section (*2*).

Right of railway administration to check contents of certain consignment or luggage.

103. Where the value has been declared under section 102 in respect of any consignment a railway administration may make it a condition of carrying such consignment that a railway servant authorised by it in this behalf has been satisfied by examination or otherwise that the consignment tendered for carriage contain the articles declared.

Notice of claim for compensations and refund of overcharge.

104. (*1*) A person shall not be entitled to claim compensation against a railway administration for the loss, destruction, damage, deterioration or non-delivery of goods carried by railway, unless a notice thereof is served by him or on his behalf,—

(*a*) to the railway administration to which the goods are entrusted for carriage; or

(*b*) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurs.

within a period of six months from the date of entrustment of the goods.

(2) Any information demanded or enquiry made in writing from, or any complaint made in writing to, any of the railway administrations mentioned in sub-section (1) by or on behalf of the person within the said period of six months regarding the non-delivery or delayed delivery of the goods with particulars sufficient to identify the goods shall, for the purpose of this section, be deemed to be a claim for compensation.

(3) A person shall not be entitled to a refund of an overcharge in respect of goods carried by railway unless a notice therefor has been served by him or on his behalf to the railway administration to which the overcharge has been paid within six months from the date of such payment or the date of delivery of such goods at the destination station, whichever is later.

Suits for compensation for loss, etc., of goods.

105. (1) Notwithstanding anything contained in any other law for the time being in force, a suit for compensation for loss, destruction, damage, deterioration or non-delivery of goods may be instituted against the railway administration on whom a notice under section 104 has been served.

(2) A suit against the railway administration under sub-section (1) shall be instituted only in a court having jurisdiction over the place at which the goods are entrusted for carriage or, as the case may be, over the place in which destination station lies or the loss, destruction, damage, deterioration occurs.

Person entitled to claim compensation.

106. (1) If a railway administration pays compensation for the loss, destruction, damage, deterioration or non-delivery of goods entrusted to it for carriage, to the consignee or the endorsee producing the railway receipt, the railway administration shall be deemed to have discharged its liability and no suit shall lie against the railway administration on the ground that the consignee or the endorsee was not legally entitled to receive such compensation.

(2) Nothing in sub-section (1) shall affect the right of any person having any interest in the goods to enforce the same against the consignee or the endorsee receiving compensation under that sub-section.

Suits for compensation for personal injury, etc.

107. A suit for compensation for the loss of life or personal injury to a passenger, may be instituted against,—

(a) the railway administration from which the passenger obtained his pass or purchased his ticket, or

(b) the railway administration on whose railway the destination station lies or the loss or injury occurs,

in a court having jurisdiction over the place at which the passenger obtained his pass or purchased his ticket or over the place in which the destination station lies or the loss or personal injury occurs.

Burden of proof.

108. In any suit against a railway administration for compensation for loss, destruction, damage, deterioration or non-delivery of any goods, the burden of proving—

(a) the monetary loss actually sustained; or

(b) where the value has been declared under sub-section (2) of section 102 in respect of any consignment that the value so declared is its true value,

shall lie on the person claiming compensation, but subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the loss, destruction, damage, deterioration or non-delivery was caused.

Extent of liability of railway administration in respect of accidents at sea.

109. (*1*) When a railway administration contracts to carry passengers or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea from act of God, public enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1958, if the ships were registered under that Act and the railway administration were owner of the ship and not to any greater extent. 44 of 1958.

(*2*) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (*1*) happened during the carriage by sea shall lie on the railway administration.

Power to make rules in respect of matters in this Chapter.

110. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter;

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of packing of goods entrusted to a railway administration;

(*b*) the goods for the purposes of sub-section (*3*) of section 98; and

(c) the maximum amount payable by the railway administration for the loss, destruction, damage, deterioration or non-delivery of any consignment under sub-section (*1*) of section 102.

CHAPTER XII

ACCIDENTS

Notice of railway accident.

111. (*1*) Where, in the course of working a railway,—

(*a*) any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code, or with serious injury to property; or 45 of 1860.

(*b*) any collision between trains of which one is a train carrying passengers; or

(*c*) the derailment of any train carrying passengers, or of any part of such train; or

(*d*) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property; or

(*e*) any accident of any other description which the Central Government may notify in this behalf in the Official Gazette,

occurs, the station master of the station nearest to the place at which the accident occurs or where there is no station master, the railway servant in charge of the section of the railway on which the accident occurs, shall, without unnecessary delay, give notice of the accident to the District Magistrate and Superintendent of Police, within whose jurisdiction the accident occurs, the officer in charge of the police station within the local limits of which the accident occurs and to such other Magistrate or police officer as may be appointed in this behalf by the Central Government.

(*2*) The railway administration within whose jurisdiction the accident occurs, as also the railway administration to whom the train involved in the accident belongs, shall without unnecessary delay, give notice of the accident to the State Government and the Commissioner having jurisdiction over the place of the accident.

Inquiry by Commissioner.

112. (*1*) On the receipt of a notice under section 111 of the occurrence of an accident to a train carrying passengers resulting in loss of human life or grievous hurt causing total or partial disablement of permanent nature to a passenger or serious damage to railway property, the Commissioner shall, as soon as may be, notify the railway administration in whose jurisdiction the accident occurred of his intention to hold an inquiry into the causes that led to the accident and shall at the same time fix and communicate the date, time and place of inquiry:

Provided that it shall be open to the Commissioner to hold an inquiry into any other accident which, in his opinion, requires the holding of such an inquiry.

(*2*) If for any reason, the Commissioner is not able to hold an inquiry as soon as may be after the occurrence of the accident, he shall notify the railway administration accordingly.

Inquiry by railway administration.

113. Where no inquiry is held by the Commissioner under sub-section (*1*) of section 112 or where the Commissioner has informed the railway administration under sub-section (*2*) of that section that he is not able to hold an inquiry, the railway administration within whose jurisdiction the accident occurs, shall cause an inquiry to be made in accordance with the prescribed procedure.

Powers of Commissioner in relation to inquiries.

114. (*1*) For the purpose of conducting an inquiry under this Chapter into the causes of any accident on a railway, the Commissioner shall, in addition to the powers specified in section 7, have the powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of persons and examining them on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copies thereof from any court or office;

(*e*) any other matter which may be prescribed.

(*2*) The Commissioner while conducting an inquiry under this Chapter shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 2 of 1974.

Statement made before Commissioner.

115. No statement made by a person in the course of giving evidence in an inquiry before the Commissioner shall subject him to, or be used against him in, any civil or criminal proceeding, except a prosecution for giving false evidence by such statement:

Provided that the statement is—

(*a*) made in reply to a question which is required by the Commissioner to answer; or

(*b*) relevant to the subject-matter of the inquiry.

Procedure, etc.

116. Any railway administration or the Commissioner conducting an inquiry under this Chapter may send notice of the inquiry to such persons, follow such procedure, and prepare the report in such manner as may be prescribed.

No inquiry, investigation, etc., to be made if the Commission of Inquiry is appointed.

117. Notwithstanding anything contained in the foregoing provisions of this Chapter, where a Commission of Inquiry is appointed under the Commissions of Inquiry Act, 1952, to inquire into an accident, any inquiry, investigation or other proceeding pending in relation to that accident shall not be proceeded with, and all records or other documents relating to such inquiry shall be forwarded to such authority as may be specified by the Central Government in this behalf.

Inquiry into accident not covered by section 111.

118. Where any accident of the nature not specified in section 111 occurs in the course of working a railway, the railway administration within whose jurisdiction the accident occurs, may cause such inquiry to be made into the causes of the accident, as may be prescribed by the Central Government.

Returns.

119. Every railway administration shall send to the Central Government, a return of accidents occurring on its railway, whether attended with injury to any person or not, in such form and manner and at such intervals as may be prescribed.

Power to make rules in respect of matters in this Chapter.

120. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the injury to property which shall be considered serious under clause (*a*) of sub-section (*1*) of section 111;

(*b*) the forms of notice of accidents to be given under section 111 and the particulars of the accident such notices shall contain;

(*c*) the manner of sending the notices of accidents, including the class of accidents to be sent by telegraph immediately after the accident;

(*d*) the duties of the Commissioner, railway administration, railway servants, police officers and Magistrates on the occurrence of an accident;

(*e*) the persons to whom notices in respect of any inquiry under this Chapter are to be sent, the procedure to be followed in such inquiry and the manner in which a report of such inquiry shall be prepared;

(*f*) the nature of inquiry to be made by a railway administration into the causes of an accident under section 118;

(*g*) the form and manner of sending a return of accidents by a railway administration under section 119.

CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO PASSENGERS DUE TO ACCIDENTS

Definitions.

121. In this Chapter, unless the context otherwise requires,—

(*a*) "accident" means an accident of the nature described in section 122;

(*b*) "Claims Commissioner" means a Claims Commissioner appointed under section 123;

(c) "dependant" means any of the following relatives of a deceased passenger, namely:—

(*i*) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(*ii*) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-deceased son, if dependant wholly or partly on the deceased passenger;

(*iii*) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(*iv*) the paternal grand parent wholly dependant on the deceased passenger.

Extent of liability.

122. (*1*) When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law to the contrary, be liable to pay compensation to the extent set out in sub-section (*2*) and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident.

(*2*) The liability of a railway administration under this section shall in no case exceed one lakh rupees in respect of any one person.

(*3*) The provisions contained in sub-section (*1*) shall also apply to a railway servant on duty on the train.

Claims Commissioner.

123. (*1*) The Central Government may, by notification, appoint any person to be a Claims Commissioner for such local area or for such accident or accidents as may be specified in the notification.

(*2*) The qualifications and conditions of service of a Claims Commissioner shall be such as may be prescribed.

Application for compensation.

124. (*1*) An application for compensation under section 122 may be made to the Claims Commissioner—

(*a*) by the person who has sustained the injury or suffered any loss, or

(*b*) by any agent duly authorised by such person in this behalf, or

(*c*) where such person is a minor, by his guardian, or

(*d*) where death has resulted from the accident, by any dependant of the deceased or where such a dependant is a minor, by his guardian.

(*2*) No application for compensation under this section shall be entertained unless it is made within three months of the occurrence of the accident but the Claims Commissioner may, on good cause shown, allow any application to be made at any time within one year of such occurrence.

Explanation.—Where a Claims Commissioner is appointed under section 123 with respect to any particular accident or accidents, the references in this sub-section to the occurrence of the accident shall be construed as references to the date on which the Claims Commissioner so appointed assumes charge of his office.

(*3*) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant.

Interim relief by railway administration.

125. (*1*) Where a person who has made an application for compensation under section 124 desires to be paid interim relief, he may apply to the railway administration for payment of interim relief along with a copy of the application made under that section.

(*2*) Where, on the receipt of an application made under sub-section (*1*) and after making such inquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to the applicant immediately, it may, pending determination by the Claims Commissioner of the actual amount of compensation payable under section 122, pay to any person who has sustained the injury or suffered any loss, or where death has resulted from the accident, to any dependant of the deceased, such sum as it considers reasonable for affording such relief, so however, that the sum paid shall not exceed the amount of compensation payable at such rates as may be prescribed.

(*3*) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under sub-section (*2*), send a copy thereof to the Claims Commissioner.

(*4*) Any sum paid by the railway administration under sub-section (*2*) shall be taken into account by the Claims Commissioner while determining the amount of compensation payable.

Procedure and powers of Claims Commissioner.

126. (*1*) In inquiring into and determining any claim for compensation payable under section 122, the Claims Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he thinks fit.

(2) The Claims Commissioner shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits.

(3) The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 2 of 1974.

(4) Subject to any rules that may be made in this behalf, the Claims Commissioner may, for the purpose of determining any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the enquiry to assist him in holding the enquiry.

Claims Commissioner to decide the liability to pay compensation, etc.

127. Any question as to the liability of a railway administration to pay compensation under section 122, or as to the amount thereof, or as to the person to whom such compensation is payable, shall be decided by Claims Commissioner.

Determination of compensation in respect of death.

128. (1) The Claims Commissioner shall, in every case where death has resulted from any accident, cause notice of the application for compensation to be published or served on every dependant who has made the application in such manner as he deems fit calling upon such dependant to appear before him on such date as he may fix for determining the compensation payable to each of the dependants.

(2) The compensation payable for death shall, after giving credit to any amount paid by way of interim relief under section 125, be apportioned among the dependants of the deceased passenger in such proportions as the Claims Commissioner thinks fit, or may be allowed to any one dependant who, in the opinion of the Claims Commissioner is best entitled.

Provision for medical examination of persons injured.

129. Whenever any person is injured as a result of an accident under section 122, the Claims Commissioner may, if he considers it necessary, direct that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side and may make such order with respect to the costs of the examination as he thinks fit.

Determination of compensation in respect of any injury or loss of goods.

130. (1) Subject to such rules as may be made, the rates of compensation payable in respect of any injury shall be determined by the Claims Commissioner.

(2) The compensation payable in respect of any loss of goods shall be such as the Claims Commissioner may, having regard to the circumstances of the case, determine to be reasonable.

Payment of compensation.

131. (*1*) A railway administration shall comply with an order for compensation forthwith by depositing the amount of the compensation with the Claims Commissioner.

(*2*) Where any compensation has been deposited as required by sub-section (*1*), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liability to any person whatsoever in respect of any compensation so deposited.

(*3*) Any compensation deposited with the Claims Commissioner under this section shall, with the least possible delay, be paid to the applicant for compensation to whom it is payable.

Appeals against the decision of a Claims Commissioner.

132. (*1*) Any person aggrieved by an order of the Claims Commissioner refusing to grant compensation, or as to the amount of compensation granted to him, may prefer an appeal to the High Court having jurisdiction in the place where the accident occurred:

Provided that nothing in this sub-section shall be deemed to authorise the High Court to grant compensation in excess of the limit specified in section 122.

(*2*) The period of limitation for an appeal under this section shall be ninety days.

(*3*) The provisions of section 5 of the Limitation Act, 1963, shall be applicable to appeals under this section. 3 of 1963.

(*4*) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (*1*), the order of the Claims Commissioner on any question shall be final and shall not be called in question in any court.

Saving as to certain rights.

133. (*1*) The right of any person to claim compensation under section 122 shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923, or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same accident. 8 of 1923.

(*2*) Nothing in sub-section (*1*) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance.

Power to make rules in respect of matters in this Chapter.

134. (*1*) The Central Government may, be notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the qualifications and conditions of service of the Claims Commissioner;

(*b*) the compensation payable for death;

(*c*) the nature of the injuries for which compensation shall be paid and the amount of such compensation;

(*d*) the manner in which claims for compensation may be inquired into and determined by the Claims Commissioner;

(*e*) the matters in respect of which persons may be chosen to assist the Claims Commissioner under sub-section (4) of section 126 and the functions exercisable by such person;

(*f*) generally for the effective exercise of any powers conferred on the Claims Commissioner by this Chapter.

CHAPTER XIV

REGULATION OF HOURS OF WORK AND PERIOD OF REST

Definitions.

135. In this Chapter, unless the context otherwise requires,—

(*a*) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(*b*) the employment of a railway servant is said to be "essentially intermittent" when it has been declared to be so by the prescribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating to six hours or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each), during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:—

(*i*) railway servants employed in a confidential capacity;

(*ii*) armed guards or other pensonnel subject to discipline similar to that of any of the armed police forces;

(*iii*) staff of the railway schools imparting technical training or academic education;

(*iv*) such categories of Grade D staff as may be prescribed;

(*v*) such staff as may be specified as supervisory under the rules;

(*vi*) such categories of staff of the Health and Medical Department as may be prescribed;

(*d*) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation.

Chapter not to apply to certain railway servants.

63 of 1948.
35 of 1952.
44 of 1958.

136. Nothing in this Chapter shall apply to any railway servant to whom the Factories Act, 1948 or the Mines Act, 1952 or the Merchant Shipping Act, 1958, applies.

Limitation of hours of work.

137. (*1*) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week.

(*2*) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours a week on an average in any month.

(*3*) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on an average in any month.

(*4*) Subject to such rules as may be prescribed, temporary exemptions of railway servants from the provisions of sub-section (*1*) or sub-section (*2*) or sub-section (*3*) may be made by the prescribed authority if it is of opnion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock or in any emergency which could not have been foreseen or prevented, or in other cases of exceptional pressure of work:

Provided that where such exemption results in the increase of hours of employment of a railway servant referred to in any of the sub-sections, he shall be paid overtime at not less than one and a half times his ordinary rate of pay for the excess hours of work.

Grant of periodical rest.

138. (*1*) Subject to the provisions of this section, a railway servant—

(*a*) whose employment is intensive or continuous shall, for every week commencing on a Sunday, be granted a rest of not less than twenty-four consecutive hours;

(*b*) whose employment is essentially intermittent shall, for every week commencing on a Sunday, be granted a rest of not less than twenty-four consecutive hours including a full night;

(*c*) whose employment is excluded under sub-clause (*iv*) of clause (c) of section 135 shall be granted a rest of not less than forty-eight consecutive hours each month, or a rest of not less than twenty-four consecutive hours each fortnight including a full night.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*i*) any locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each or at least five periods of not less than twenty-two consecutive hours each, including a full night;

(*ii*) the Central Government may, by rules, specify the railway servants to whom periods of rest on scales less than those laid down under sub-section (*1*) may be granted and the periods thereof.

(*3*) Subject to such rules as may be made in this behalf, if the prescribed authority is of the opinion that such circumstances as are referred to in sub-section (*4*) of section 137 are present, it may exempt any railway servant from the provisions of sub-section (*1*) or clause (*i*) of sub-section (*2*):

Provided that a railway servant so exempted shall, in such circumstances as may be prescribed, be granted compensatory periods of rest for the periods he has foregone.

Railway servant to remain on duty.

139. Nothing in this Chapter or the rules made thereunder shall, where due provision has been made for the relief of a railway servant, authorise him to leave his duty until he has been relieved.

Supervisors of railway labour.

140. (*1*) Subject to such rules as may be made in this behalf, the Central Government may appoint supervisors of railway labour.

(*2*) The duties of supervisors of railway labour shall be—

(*i*) to inspect railways in order to determine whether the provisions of this Chapter or of the rules made thereunder are duly observed; and

(*ii*) to perform such other functions as may be prescribed.

(*3*) A supervisor of railway labour shall be deemed to be a Commissioner for the purposes of sections 7 and 9.

Power to make rules in respect of matters in this Chapter.

141. (*1*) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the authorities who may declare the employment of any railway servant essentially intermittent or intensive;

(*b*) the appeals against any such declaration and the manner in which, and the conditions subject to which any such appeal may be filed and heard;

(*c*) the categories of staff that may be specified under sub-clauses (*iv*), (*v*) and (*vi*) of clause (*c*) of section 135;

(*d*) the authorities by whom exemptions under sub-section (*4*) of section 137 or sub-section (*3*) of section 138 may be made;

(*e*) the delegation of power by the authorities referred to in clause (*d*);

(*f*) the railway servants to whom clause (*ii*) of sub-section (*2*) of section 138 apply and the periods of rest to be granted to them;

(*g*) the appointment of supervisors of railway labour and their functions.

CHAPTER XV

PENALTIES AND OFFENCES

Fraudulently travelling or attempting to travel without proper pass or ticket.

142. (*1*) If any person, with intent to defraud a railway administration,—

(*a*) enters or remains in any carriage on a railway or travels in a train in contravention of section 53, or

(*b*) uses or attempts to use a single pass or a single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used,

he shall be punishable with imprisonment for a term which may extend to six months and to fine which may extend to one thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month and a fine of two hundred and fifty rupees.

(*2*) The person referred to in sub-section (*1*) shall also be liable to pay the excess charge mentioned in sub-section (*3*) in addition to the ordinary single fare for the distance which he has travelled, or where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or, in case of their having been examined more than once, were last examined.

(*3*) The excess charge referred to in sub-section (*2*) shall be a sum equivalent to the ordinary single fare referred to in that sub-section or twenty rupees, whichever is more.

(*4*) Notwithstanding anything contained in section 65 of the Indian haviour, such court may at the time of passing the sentence on the person, in default of payment of any fine inflicted by the court shall suffer imprisonment for a term which may extend to six months. 45 of 1860.

Levy of excess charge and fare for travelling without proper pass or ticket or beyond authorised distance.

143. (*1*) If any passenger,—

(*a*) being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on a demand being made therefor under section 52, or

(*b*) travels in a train in contravention of the provisions of section 53,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, the excess charge mentioned in sub-section (*3*) in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or in the case of their having been examined more than once, were last examined.

(*2*) If any passenger,—

(*a*) travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket; or

(b) travels in or on a carriage beyond the place authorised by his pass or ticket,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, any difference between the fare paid by him and the fare payable in respect of the journey he has made and the excess charge referred to in sub-section (3).

(3) The excess charge shall be a sum equal to the amount payable under sub-section (1) or sub-section (2), as the case may be, or twenty rupees, whichever is more:

Provided that if the passenger has with him a certificate granted under sub-section (2) of section 53, no excess charge shall be payable.

(4) If any passenger liable to pay the excess charge and the fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on a demand being made therefor under one or other of these sub-sections, as the case may be, any railway servant authorised by the railway administration in this behalf may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first or second class, as the case may be, for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered, and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month but not less than ten days.

(5) Any sum recovered under sub-section (4) shall, as and when it is recovered, be paid to the railway administration.

Power to remove persons.

144. Any person failing or refusing to pay the fare and the excess charge referred to in section 143 may be removed by any railway servant authorised in this behalf who may call to his aid any other person to effect such removal:

Provided that nothing in this section shall be deemed to preclude a person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket:

Provided further that a woman or a child if unaccompanied by a male passenger, shall not be so removed except either at the station from where she or he commences her or his journey or at a junction or terminal station or station at the headquarters of a civil district and such removal shall be made only during the day.

Security for good behaviour in certain cases.

145. (1) When a court convicting a person of an offence under section 142 or section 143 finds that he has been habitually committing or attempting to commit that offence and the court is of the opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may at the time of passing the sentence on the person, order him to execute a bond with or without sureties, for such amount and for such period not exceeding three years as it deems fit.

(2) An order under sub-section (1) may also be made by an appellate court or by the High Court when exercising its powers of revision.

Needlessly interfering with means of communication in a train.

146. If any passenger or any other person, without reasonable and sufficient cause, makes use of, or interferes with, any means provided by a railway administration in a train for communication between passengers and the railway servant in charge of the train, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, such punishment shall not be less than—

(*a*) a fine of five hundred rupees, in the case of conviction for the first offence; and

(*b*) imprisonment for three months in case of conviction for the second or subsequent offence.

Penalty for transfer of tickets.

147. (*1*) If any person not being a railway servant or an agent authorised in this behalf—

(*a*) sells or attempts to sell any ticket or any half of a return ticket; or

(*b*) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made or any half of a return ticket or a season ticket,

in order to enable any other person to travel therewith, he shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees and shall also forfeit the ticket which he sells or attempts to sell or parts or attempts to part.

(*2*) If any person purchases any ticket referred to in clause (*a*) of sub-section (*1*) or obtains the possession of any ticket referred to in clause (*b*) of that sub-section from any person other than a railway servant or an agent authorised in this behalf, he shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees and if the purchaser or holder of any ticket aforesaid travels or attempts to travel therewith, he shall forfeit the ticket which he so purchased or obtained and shall be deemed to be travelling without a proper ticket and shall be liable to be dealt with under section 143:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the punishment under sub-section (*1*) or sub-section (*2*) shall not be less than imprisonment for a term of one month and a fine of two hundred and fifty rupees.

Penalty for unauthorised carrying on of business of procuring and supplying of railway tickets.

148. (*1*) If any person, not being a railway servant or an agent authorised in this behalf,—

(*a*) carries on the business of procuring and supplying tickets for travel on a railway or for reserved accommodation for journey in a train; or

(*b*) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person,

he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees and shall also forfeit the tickets which he so procures, supplies, purchases, sells or attempts to purchase or sell:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one year and a fine of five hundred rupees.

(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence.

Prohibition on hawking, etc., and begging.

149. (1) If any person canvasses for any custom or hawks or exposes for sale any article whatsoever in any railway carriage or upon any part of a railway, except under and in accordance with the terms and conditions of a licence granted by the railway administration in this behalf, he shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to two thousand rupees:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of six months and a fine of five hundred rupees.

(2) If any person begs in any railway carriage or upon a railway station, he shall be liable for punishment as provided under sub-section (1).

(3) Any person referred to in sub-section (1) or sub-section (2) may be removed from the railway carriage or any part of the railway or railway station, as the case may be, by any railway servant authorised in this behalf or by any other person whom such railway servant may call to his aid.

Drunkenness or nuisance.

150. If any person in any railway carriage or upon any part of a railway—

(a) is in a state of intoxication; or

(b) commits any nuisance or act of indecency or uses abusive or obscene language; or

(c) wilfully or without excuse interferes with any amenity provided by the railway administration so as to affect the comfortable travel of any passenger,

he may be removed from the railway by any railway servant and shall, in addition to the forfeiture of his pass or ticket, be punishable with imprisonment which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than—

(*a*) a fine of one hundred rupees in the case of conviction for the first offence; and

(*b*) imprisonment of one month and a fine of two hundred and fifty rupees, in the case of conviction for second or subsequent offence.

Obstructing railway servant in his duties.

151. If any person wilfully obstructs or prevents any railway servant in the discharge of his duties, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Trespass and refusal to desist from trespass.

152. (*1*) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month and a fine of two hundred and fifty rupees.

(*2*) Any person referred to in sub-section (*1*) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.

Penalty for making a false statement in an application for compensation.

153. If in any application for compensation under section 124, any person makes a statement which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Making a false claim for compensation.

154. If any person requiring compensation from a railway administration for loss, destruction, damage, deterioration or non-delivery of any consignment makes a claim which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Maliciously wrecking or attempting to wreck a train.

155. (*1*) Subject to the provisions of sub-section (*2*), if any person unlawfully,—

(*a*) puts or throws upon or across any railway, any wood, stone or other matter or thing; or

(*b*) takes up, removes, loosens or displaces any rail, sleeper or other matter or things belonging to any railway; or

(*c*) turns, moves, unlocks or diverts any points or other machinery belonging to any railway; or

(*d*) makes or shows, or hides or removes, any signal or light upon or near to any railway; or

(*e*) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent or with knowledge that he is likely to endanger the safety of any person travelling on or being upon the railway, he shall be punishable with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a person is punishable with rigorous imprisonment, such imprisonment shall not be less than—

(*a*) three years in the case of a conviction for the first offence; and

(*b*) seven years in the case of conviction for the second or subsequent offence.

(*2*) If any person unlawfully does any act or thing referred to in any of the clauses of sub-section (*1*)—

(*a*) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(*b*) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person,

he shall be punishable with death or imprisonment for life.

Damage to or destruction of certain railway properties.

156. (*1*) If any person, with intent to cause, or knowing that he is likely to cause damage or destruction to any property of a railway referred to in sub-section (*2*), causes by fire, explosive substance or otherwise, damage to such property to the extent of one hundred rupees or upwards, or destruction of such property, he shall be punishable with imprisonment for a term which may extend to ten years.

(*2*) The properties of a railway referred to in sub-section (*1*) are railway track, bridges, station buildings and installations, carriages or wagons, locomotives, signalling, telecommunications, electric traction and block equipments and such other properties as the Central Government being of the opinion that damage thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification, specify.

Maliciously hurting or attempting to hurt persons travelling by railway.

157. If any person unlawfully throws or causes to fall or strike at, against, into or upon any rolling stock forming part of a train, any wood, stone or other matter or thing with intent, or with knowledge that he is likely to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train, he shall be punishable with imprisonment for life, or with imprisonment for a term which may extend to ten years.

Endangering safety of persons travelling by railway by wilful act or omission.

158. If any person by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling on or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any railway, he shall be punishable with imprisonment for a term which may extend to five years:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than—

(*a*) six months in the case of conviction for the first offence; and

(*b*) two years in the case of a conviction for the second or subsequent offence.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

159. If any person in a rash and negligent manner does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon any railway, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Entering into a compartment reserved or resisting entry into a compartment not reserved.

160. (*1*) If any passenger—

(*a*) having entered a compartment wherein no berth or seat has been reserved by a railway administration for his use, or

(*b*) having unauthorisedly occupied a berth or seat reserved by a railway administration for the use of another passenger,

refuses to leave it when required to do so by any railway servant authorised in this behalf, such railway servant may remove him or cause him to be removed, with the aid of any other person, from the compartment, berth or seat, as the case may be, and he shall also be punishable with fine which may extend to two hundred rupees.

(*2*) If any passenger resists the lawful entry of another passenger into a compartment not reserved for the use of the passenger resisting, he shall be punishable with fine which may extend to two hundred rupees.

Entering carriage in motion or otherwise improperly travelling on a railway.

161. If any passenger enters or leaves, or attempts to enter or leave,—

(*a*) any carriage while the train is in motion; or

(*b*) elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage; or

(*c*) opens the door of any carriage while the train is in motion,

he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Travelling on roof, step or engine of a train.

162. If any passenger or any other person, after being warned by a railway servant to desist, persists in travelling on the roof, step or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees and may be removed from the railway by any railway servant:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of ten days and a fine of one hundred rupees.

Altering or defacing pass or ticket.

163. If any passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Penalty for contravention of any of the provisions of Chapter XIV.

164. Any person under whose authority any railway servant is employed in contravention of any of the provisions of Chapter XIV or of the rules made thereunder, he shall be punishable with fine which may extend to five hundred rupees.

Disobedience of drivers or conductors of vehicles to directions of railway servant, etc.

165. If any driver or conductor of any vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Opening or breaking a level crossing gate.

166. (*1*) If any person, other than a railway servant or a person authorised in this behalf, opens any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to three years.

(*2*) If any person breaks any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to five years.

Cattle trespass.

167. (*1*) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871, be punishable with fine which may extend to thirty rupees for each head of cattle.

1 of 1871.

(*2*) Any fine imposed under sub-section (*1*) may, if the court so directs, be recovered in the manner provided by section 25 of the Cattle-trespass Act, 1871.

1 of 1871.

(*3*) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by section 11 of that Act.

1 of 1871.

(*4*) In this section, "cattle" has the same meaning as in the Cattle-trespass Act, 1871.

Negligently crossing unmanned level crossing.

168. If any person driving or leading a vehicle is negligent in crossing an unmanned level crossing, he shall be punishable with imprisonment which may extend to one year.

Explanation.—For the purposes of this section, "negligence" in relation to any person driving or leading a vehicle in crossing an unmanned level crossing means the crossing of such level crossing by such person—

(*a*) without stopping or caring to stop the vehicle near such level crossing to observe whether any approaching rolling stock is in sight, or

(*b*) even while an approaching rolling stock is in sight.

Entering carriage or other place reserved for females.

169. If a male person knowing or having reason to believe that a carriage, compartment, berth or seat in a train or room or other place is reserved by a railway administration for the exclusive use of females, without lawful excuse,—

(*a*) enters such carriage, compartment, room or other place, or having entered such carriage, compartment, room or place, remains therein; or

(*b*) occupies any such berth or seat having been required by any railway servant to vacate it,

he shall, in addition to being liable to forfeiture of his pass or ticket, be punishable with fine which may extend to two hundred rupees and may also be removed by any railway servant.

Giving false account of goods.

170. If any person required to furnish an account of goods under section 64, gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall, without prejudice to his liability to pay any freight or other charge under any provision of this Act, be punishable with fine which may extend to five hundred rupees for every quintal or part thereof of such goods.

Unlawfully bringing dangerous goods on a railway.

171. If any person, in contravention of section 65, takes with him any dangerous goods or entrusts such goods for carriage to the railway administration, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railway:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month.

Unlawfully bringing offensive goods on a railway.

172. If any person, in contravention of section 65, takes with him any offensive goods or entrusts such goods for carriage to the railway administration, he shall be punishable with fine which may extend to five hundred rupees and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railway.

Defacing public notices.

173. If any person without lawful authority—

(*a*) pulls down or wilfully damages any board or document set up or posted by the order of a railway administration on a railway or any rolling stock; or

(*b*) obliterates or alters any letters or figures upon any such board or document or upon any rolling stock,

he shall be punishable with imprisonment for a term which may extend to one month and with fine which may extend to two hundred and fifty rupees.

Smoking.

174. (*1*) No passenger in any compartment of a train shall, if objected to by any other passenger in that compartment, smoke therein.

(*2*) Notwithstanding anything contained in sub-section (*1*), a railway administration may prohibit smoking in any train or part of a train.

(*3*) Whosoever contravenes the provisions of sub-section (*1*) or sub-section (*2*) shall be punishable with fine which may extend to one hundred rupees.

Travel on railway with infectious or contagious disease.

175. If any person suffering from any infectious or contagious disease enters or remains in any carriage or travels on railway in contravention of the provisions of sub-section (*1*) of section 54 he, and any person accompanying him on the railway shall, in addition to their being liable to the forfeiture of their passes or tickets and removal from the railway by any railway servant, be punishable with fine which may extend to one hundred rupees.

Provision with respect to commission of offence by the children of acts endangering safety of person travelling on railway.

176. (*1*) If a person under the age of twelve years is guilty of any of the offences under sections 155, 156, 157, 158 and 159, the court convicting him may require the father or guardian of such person to execute, within such time as the court may fix, a bond for such amount and for such period as the court may direct for the good conduct of such person.

(*2*) The amount of the bond, if forfeited, shall be recoverable by the court as if it were a fine imposed by itself.

(*3*) If a father or guardian fails to execute a bond under sub-section (*1*) within the time fixed by the court, he shall be punishable with fine which may extend to fifty rupees.

Levy of penalty on non-Government railway.

177. If a non-Government railway fails to comply with, any requisition made, decision or direction given, by the Central Government, under any of the provisions of this Act, or otherwise contravenes any of the provisions of this Act, it shall be open to the Central Government, by order, to levy a penalty not exceeding two hundred and fifty rupees and a further penalty not exceeding one hundred rupees for every day during which the contravention continues:

Provided that no such penalty shall be levied except after giving a reasonable opportunity to the non-Government railway to make such representation as it deems fit.

Recovery of penalty.

178. Any penalty imposed by the Central Government under section 177, shall be recoverable by a suit in the District Court having jurisdiction in the place where the head office of the non-Government railway is situated.

Section 177 or 178 not to preclude Central Government from taking any other action.

179. Nothing in section 177 or 178 shall preclude the Central Government from resorting to any other action to compel a non-Government railway to discharge any obligation imposed upon it by or under this Act.

Penalty for drunkenness.

180. If any railway servant is in a state of intoxication while on duty, he shall be punishable with fine which may extend to fifty rupees and when the performance of any duty in such state is likely to endanger the safety of any person travelling on or being upon a railway, such railway servant shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Abandoning train, etc., without authority.

181. If any railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, or of any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place without authority or without properly handing over such train or rolling stock to another authorised railway servant, he shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of six months and with a fine of two hundred and fifty rupees.

Obstructing running of train, etc.

182. If any railway servant (whether on duty or otherwise) or any other person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon a railway,—

(*a*) by squatting or picketing or during any *rail roko* agitation or *bandh;* or

(*b*) by keeping without authority any rolling stock on the railway; or

(*c*) by tampering with, disconnecting or interfering in any other manner with its hose pipe or tampering with signal gear or otherwise;

he shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not,—

(*i*) if it relates to the offences specified in clauses (*a*) and (*b*), be less than imprisonment for a term of three months and a fine of five hundred rupees;

(*ii*) if it relates to the offences specified in clause (*c*), be less than imprisonment for a term of six months and a fine of one thousand rupees.

Endangering the safety of persons.

183. If any railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any rule made under this Act; or

(*b*) by disobeying any instruction, direction or order under this Act or the rules made thereunder, or

(*c*) by any rash or negligent act or omission,

he shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to one thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of six months and a fine of five hundred rupees.

Obstructing level crossing.

184. If any railway servant unnecessarily—

(*a*) allows any rolling stock to stand across a place where the railway crosses a public road on the level; or

(*b*) keeps a level crossing closed against the public,

he shall be punishable with fine which may extend to one hundred rupees.

False returns.

185. If any railway servant required to furnish a return by or under this Act, signs and furnishes a return which is false in any material particular or which he knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Making a false report by a railway servant.

186. If any railway servant who is required by a railway administration to inquire into a claim for loss, destruction, damage, deterioration or non-delivery of any consignment makes a report which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Penalty for wilfully permitting a person suffering from any infectious or contagious disease to travel.

187. If any railway servant referred to in sub-section (2) of section 54 knowing or having reason to believe that a person is suffering from any infectious or contagious disease, wilfully permits the person to travel on a railway without making arrangements for his separation from other passengers, he shall be punishable with fine which may extend to one hundred rupees.

Omission to give notice of accident.

188. If any railway servant omits to give such notice of an accident as is required by section 111 or in the form and manner prescribed under section 120, he shall be punishable with fine which may extend to fifty rupees.

Arrest for offences under certain sections.

189. (*1*) If a person commits any offence mentioned in sections 142, 146, 147, 148, 149, 150, 151, 152, 155, 156, 157, 158, 159, 160, 161, 162, 163, 166, 168, 169, 171, 173, 176, 180, 181, 182 and 183, he may be arrested without warrant or other written authority by any railway servant or police officer not below the rank of a head constable.

(*2*) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (*1*).

(*3*) Any person so arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate.

Arrest of persons likely to abscond, etc.

190. (*1*) If any person who commits any offence under this Act, other than an offence mentioned in section 189, or is liable to pay any excess charge or other sum demanded under section 143, fails or refuses to give his name and address or there is reason to believe that the name and address given by him are fictitious or that he will abscond, any railway servant authorised in this behalf or any police officer not below the rank of a head constable may arrest him without warrant or written authority.

(*2*) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (*1*).

(*3*) Any person arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate unless he is released earlier on giving bail or if his true name and address are ascertained on executing a bond without sureties for his appearance before the Magistrate having jurisdiction to try him for the offence.

(*4*) The provisions of Chapter XXIII of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the giving of bail and the execution of bonds under this section. 2 of 1974.

Magistrate having jurisdiction under the Act.

191. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence under this Act. 2 of 1974.

Place of trial.

192. (*1*) Any person committing an offence under this Act or any rule made thereunder shall be triable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(*2*) Every notification under sub-section (*1*) shall be published in the Official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at such railway stations as the State Government may direct.

CHAPTER XVI

MISCELLANEOUS

Power to provide other transport services.

193. (*1*) A railway administration may, for the purpose of facilitating the carriage of passengers or goods or to provide integrated service for such carriage, provide any other mode of transport.

(*2*) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to the carriage of passengers or goods by the mode of transport referred to in sub-section (*1*).

Taxation on railways by local authorities.

194. (*1*) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

(*2*) While a notification of the Central Government under sub-section (*1*) is in force, the railway administration shall be liable to pay to the local authority either the tax specified in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Central Government may, having regard to all the circumstances of the case, from time to time, determine to be fair and reasonable.

(*3*) The Central Government may at any time revoke or vary a notification issued under sub-section (*1*).

(*4*) Nothing in this section shall be construed to prevent any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render to the railway administration.

Taxation on railways for advertisement.

195. (*1*) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax to any local authority in respect of any advertisement made on any part of the railway unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

(*2*) The Central Government may at any time revoke or vary a notification issued under sub-section (*1*).

Bar of jurisdiction of civil courts.

196. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction to entertain any suit or proceeding for anything done or action taken or any omission made by the Central Government or by a railway administration in violation or contravention of any provision of this Act.

Protection of action taken in good faith.

197. No suit prosecution or other legal proceeding shall lie against the Central Government, any railway administration, a railway servant or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Restriction on execution against railway property.

198. (*1*) No rolling stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any court or of any local authority or person having by law the power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the Central Government.

(*2*) Nothing in sub-section (*1*) shall be construed to affect the authority of any court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of Chapter IX and section 409 of the Indian Penal Code.

199. (*1*) Any railway servant, who is not a public servant within the meaning of section 21 of the Indian Penal Code, shall be deemed to be a public servant for the purposes of Chapter IX and section 409 of that Code. 45 of 1860.

(*2*) In the definition of "legal remuneration" in section 161 of the Indian Penal Code, the word "Government" shall, for the purposes of sub-section (*1*), be deemed to include any employer of a railway servant as such. 45 of 1860.

Railway servants not to engage in trade.

200. A railway servant shall not—

(*a*) purchase or bid for, either in person or by an agent, in his own name or in that of another, or jointly or in shares with others, any property put to auction under section 81 or section 82 or section 83 or section 88; or

(*b*) in contravention of any direction of the railway administration in this behalf, engage in trade.

Procedure for delivery to railway administration of property detained by a railway servant.

201. If a railway servant is discharged from service or is suspended, or dies or absconds or absents himself, and he or his wife or widow or any member of his family or his representative, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration or to a person appointed by the railway administration, in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers, keys, equipment or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Metropolitan Magistrate or Judicial Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the station, dwelling-house or other building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or to a person appointed by the railway administration in that behalf.

Proof of entries in records and documents.

202. Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession

Service of notice, etc., on railway administration.

203. Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a Zonal Railway on the General Manager or any of the railway servant authorised by the General Manager, and in the case of any other railway,

on the owner or lessee of the railway or the person working the railway under an agreement—

(a) by delivering it to him; or

(b) by leaving it at his office; or

(c) by registered post to his office address.

Service of notice, etc., by railway administration.

204. Unless otherwise provided in this Act or the rules framed thereunder, any notice or other document required or authorised by this Act to be served on any person by a railway administration may be served—

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known place of abode of the person; or

(c) by registered post addressed to the person at his usual or last known place of abode.

Presumption where notice is served by post.

205. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Representation of railway administration.

206. (*1*) A railway administration may, by order in writing, authorise any railway servant or other person to act for, or represent it, as the case may be, in any proceeding before any civil, criminal or other court.

(*2*) A person authorised by a railway administration to conduct prosecutions on its behalf shall, notwithstanding anything in section 302 of the Code of Criminal Procedure, 1973, be entitled to conduct such prosecutions without the permission of the Magistrate.

2 of 1974.

Power to exempt railway from Act.

207. The Central Government may, by notification, exempt any railway from all or any of the provisions of this Act.

Matters supplemental to the definitions of "railway" and "railway servant".

208. (*1*) For the purposes of sections 65, 111 119, 121, 129, 152, 156 to 169, 166, 171, 173, 176, 178, 179, 181 to 184, 188, 189, 190, 192, 194, 195, 198 to 201, 203, 204, 206 and 208, the word "railway" whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in clause (*30*) of section 2.

(*2*) For the purposes of sections 7, 22, 111, 151, 167, 180 to 184, 188, 199, 200 and 201, the expression "railway servant" includes a person employed under a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

General power to make rules.

209. Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

Rules to be laid before Parliament.

210. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

211. (*1*) The Indian Railways Act, 1890 is hereby repealed.

(*2*) Notwithstanding the repeal of the Indian Railways Act, 1890 (hereinafter referred to as the repealed Act)—

(*a*) anything done or any action taken or purported to have been done or taken (including any rule, notification, inspection, order or notice made or issued, or any appointment or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(*b*) any complaint made to the Railway Rates Tribunal under sub-section (*1*) of section 41 of the repealed Act but not disposed of before the commencement of this Act and any complaint that may be made to the said Tribunal against any act or omission of a railway administration under the repealed Act shall be heard and decided by the Tribunal constituted under this Act in accordance with the provisions of Chapter VII of this Act;

(*c*) any application made to any Claims Commissioner under sub-section (*1*) of section 82C of the repealed Act but not disposed of before the commencement of this Act and any application that may be made to any Claims Commissioner in relation to any accident occurred before such commencement shall be disposed of by any Claims Commissioner appointed under this Act in accordance with the provisions of this Act; and

(*d*) every appeal from any decision of the Claims Commissioner under sub-section (*2*) of section 82F of the repealed Act shall, if not preferred before the commencement of the Act, be preferred before the High Court within a period of ninety days from such commencement:

Provided that the High Court may entertain such appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal. 10 of 1897.

THE SCHEDULE

[*See* section 102 (*1*)]

EXTENT OF MONETARY LIABILITY OF RAILWAY ADMINISTRATION FOR LOSS, DESTRUCTION, ETC., OF ANIMALS IN CASES WHERE VALUE HAS NOT BEEN DECLARED AT THE TIME OF ENTRUSTMENT

Description of animals	Extent of liability of railway administration
(1)	(2)
Elephants	Rs. 3,000 per head.
Horses	Rs. 1,500 per head.
Mules, horned cattle or camels	Rs. 400 per head.
Dogs, donkeys, goats, pigs, sheep or other animals not mentioned above	Rs. 60 per head.
Birds	Rs. 30 per head.

STATEMENT OF OBJECTS AND REASONS

The Indian Railways Act, 1890 was enacted at a time when the railways in India were mostly managed by private companies. The Government of India primarily played the role of a coordinating and regulating authority in various matters, such as, inter-railway movement of traffic, fixation of rates, sharing of revenue earnings of through traffic, apportionment of claims liability amongst the railways, providing reasonable facilities to passenger and goods traffic, etc. This role was accordingly reflected in the Act. But now, except for a very small portion of the railways, the entire railway system has become part of the Government of India. To give effect to the changes in the railway system from time to time, the Act had also undergone changes a number of times since its enactment in 1890. In addition, as some of the original provisions enacted in 1890 had continued without any change, a need for their replacement by new provisions more responsive to the needs of the present day was felt and some other provisions have become redundant. There has also been a demand, both within and outside Parliament, for the re-enactment of the Act so as to reflect the large number of changes that have occurred in the railways. It has, therefore, become necessary to consolidate and amend the law relating to railways by a new Act.

2. The Bill, while giving effect to the changes that are necessary due to the change of circumstances, provides, among other things, for the following matters, namely:—

(*i*) The railways are being administered by zonal railways. This position had not been given effect to in the Act. The Bill provides for the constitution of railway zones, abolition of existing zones and appointment of General Managers as heads of these railway administrations.

(*ii*) Power has been given to the Central Government to fix the rates for the carriage of passengers and goods over the railways instead of the existing provisions to fix only the maximum and minimum rates for such carriage and leaving the fixation of specific rates to the railway administrations. In addition, the railway administrations are also being authorised to specify lump sum rates for the carriage of goods.

(*iii*) In accordance with certain judicial pronouncements, the Bill provides for statutory recognition of the railway receipt as a negotiable instrument.

(*iv*) The Bill specifically provides for limiting the monetary liability of railway administrations in respect of payment of compensation for loss, damage, etc., of goods. Provision has, however, been made for full liability subject to the condition that the consignor, while entrusting the goods to a railway administration for carriage, should declare the value of the goods and pay a percentage charge on such value.

(v) The offences included in the Act have been rationalised and a few new offences have also been included in the Bill. Punishments for some of the offences had not been changed since the enactment of the Act. Penalties provided for the offences under the Act have been made more stringent which would include, among other things, a minimum punishment for many of the offences.

3. The Bill seeks to achieve the aforesaid objects.

4. The Notes on Clauses explain in detail the provisions included in the Bill.

NEW DELHI;
The 2nd April, 1986.

MADHAVRAO SCINDIA.

Notes on clauses

Clause 2 seeks to define certain words and expressions used in the Bill.

Clause 3.—Sub-clause (1) provides for constitution of Government railways into zonal railways.

Sub-clause (2) provides that zonal railways existing immediately before the commencement of this Act shall be deemed to be zonal railways under sub-clause (1).

Sub-clause (3) provides that any unit of railways engaged in research, development, designing, construction or production of rolling stock, etc., may be declared as a zonal railway.

Sub-clause (4) empowers the Central Government to abolish any zonal railway, or constitute any new zonal railway or change the name or headquarters of any zonal railway and determine the area of their jurisdiction.

Clause 4 provides for appointment of General Manager of a zonal railway in whom the superintendence and control of railway shall vest.

Clauses 5, 6 and 7 provide for appointment of Chief Commissioner of Railway Safety and Commissioners of Railway Safety, and their duties and powers.

Clause 8 lays down that the Commissioner shall be deemed to be a public servant.

Clause 9 lays down that railway administration shall afford all reasonable facilities to the Commissioner in the discharge of his duties and exercise of powers.

Clause 10 provides for the powers of railway administration to execute all necessary works in relation to construction and maintenance of railways.

Clause 11 confers on railway administration the power to alter the position of pipes, electric supply lines, drains or sewers, etc., for the purposes of exercising the powers under this Act.

Clause 12.—Sub-clause (a) provides that railway administration of the Government railway shall not do anything on or to any works, lands or buildings vested in or in the possession of a State Government without the consent of that Government.

Sub-clause (b) provides that a railway administration of a non-Government railway shall not do anything on or to any works, lands or buildings vested in or in the possession of the Central Government or a State Government without the consent of the Government concerned.

Clause 13.—Sub-clause (1) lays down that a railway administration may take such steps as it may consider necessary to avert danger to the movement of rolling stock or remove the obstruction caused by fall of any tree, post or structure, etc.

Sub-clause (2) empowers a railway administration to enter upon any lands adjoining the railway and to do all works necessary for the purpose of repairing or preventing a slip or accident.

Sub-clause (3) lays down that the Central Government on receipt of report under sub-clause (1) or (2) may direct that the work be stopped or be carried out on such conditions as may be specified by the Central Government.

Clause 14.—Sub-clause (1) provides that no suit shall lie against the railway administration to recover any amount for any damage or loss caused in exercise of the powers conferred by clauses 10 to 13.

Sub-clause (2) provides that the amount of damage or loss shall be paid or tendered to the persons and if any dispute arises as to the sufficiency of the amount or as to the persons entitled to receive such amount, the same shall be referred to the District Judge who shall decide it as an appeal under section 96 of the Code of Civil Procedure, 1908.

Clause 15 provides for the nature of accommodation works and the circumstances in which such accommodation works may be carried out by a railway administration.

Clause 16.—Sub-clause (1) provides that an owner or occupier of any land or the State Government or a local authority desiring any additional accommodation work may require the railway administration to carry out such work at the cost of such owner, occupier, the State Government or the local authority.

Sub-clause (2) provides that the works carried on under sub-section (1) shall be maintained at the cost of the owner, occupier, the State Government or the local authority at whose request the works were done.

Sub-clause (3) lays down that in case of any difference between the railway administration and the owner, occupier or the State Government or the local authority, in relation to the necessity of or expenses incurred on the construction of accommodation works, the same shall be referred to the Central Government whose decision thereon shall be final.

Clause 17 provides that the Central Government may require boundary marks or fences to be provided by a railway administration and further provides that suitable gates, chains, bars, etc., may be erected and renewed at level crossing or that persons be employed by a railway administration to open and close such gates, chains or bars, etc.

Clause 18 provides for construction of over-bridges and under-bridges at a level crossing at the instance of the State Government or the local authority in the interest of public safety.

Clause 19 lays down that no railway shall be opened for the public carriage of passengers until the Central Government has sanctioned the opening thereof.

Clause 20 lays down the formalities to be complied with before sanction to the opening of a railway is given by the Central Government.

Clause 21 lays down that the provisions of clauses 19 and 20 shall apply to the opening of additional lines of railway, deviation lines, opening of stations, junctions, level crossings, introduction of electric traction, etc.

Clause 22 provides that where an accident has occurred on a railway resulting in a temporary suspension of traffic, such railway may be opened for the public carriage of passengers without prior inspection by the Commissioner if the railway servant in charge of the works undertaken by reason of the accident certifies that opening of the lines of rails, works and temporary diversion will not be attended with danger to the public and notice of the opening of such lines of rails, works or other diversion is sent by telegraph to the Commissioner.

Clause 23 empowers the Central Government to close railway opened for the public carriage of passengers on receipt of the opinion of the Commissioner.

Clause 24 lays down the conditions for re-opening of closed railway.

Clause 25 enjoins on a railway administration a duty to obtain the previous sanction of the Central Government before using any rolling stock of a design or type different from that already running on any section of the railway.

Clause 26 provides that the powers of the Central Government relating to opening of railways may be delegated to the Commissioner subject to such conditions as may be specified.

Clause 27 provides *inter alia* that the Central Government, before opening a railway for the public carriage of passengers may make rules in respect of the duties of railway administration and the Commissioner, the arrangements to be made and the formalities to be observed before such opening of railway.

Clause 28.—Sub-clause (1) empowers the Central Government to fix rates for the carriage of passengers and goods and specify the conditions subject to which such rates shall apply.

Sub-clause (2) empowers the Central Government to fix rates or other charges including demurrage and wharfage and the conditions subject to which such rates or charges shall apply.

Clause 29 empowers the Central Government to classify commodities and alter rates therefor.

Clause 30 empowers a railway administration to charge station to station rate, increase, reduce or cancel such rates and withdraw, alter or amend the conditions attached to such rate and to charge any lump-sum rate.

Clause 31 provides for establishment of a Railway Rates Tribunal and qualifications of persons who may be Chairman and members of such Tribunal, etc.

Clause 32 provides that the Tribunal may, with the previous approval of the Central Government, appoint officers and employees for the efficient discharge of its functions under Chapter VII.

Clause 33 lays down that the Tribunal may sit at such places as it may find convenient.

Clause 34 provides for the nature of complaints against a railway administration which may be made to the Tribunal

Clause 35 lays down the bar on the jurisdiction of Tribunal in certain matters such as classification or re-classification of a commodity, fixation of wharfage and demurrage charges, fares levied for the carriage of passengers and freight levied for the carriage of luggage, parcels, etc.

Clause 36 provides that the Tribunal shall be a civil court under the Code of Civil Procedure, 1908 for the purpose of taking evidence on oath, etc., and shall also be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1973.

Clause 37 lays down that the Central Government may make a reference to the Tribunal in respect of matters specified in section 35.

Clause 38 enjoins on the Central Government a duty to give assistance to the Tribunal.

Clause 39.—(a) Provides that where lower rates are charged, the burden of proving that such lower rates does not amount to undue preference shall lie on the railway administration.

(b) Provides that while considering the question of undue preference the Tribunal may take into consideration whether such lower rate charge is necessary in the interest of public.

Clause 40 provides for the finality of the decision of the Tribunal.

Clause 41 bars the jurisdiction of courts in respect of matters which the Tribunal is empowered to deal with or decide.

Clause 42 enunciates the reliefs the Tribunal may grant.

Clause 43 confers on the Tribunal power of revision in certain circumstances.

Clause 44 provides that the order of the Tribunal shall be a decree of the civil court and shall be executed accordingly.

Clause 45 provides that the Tribunal shall make an annual report to the Central Government of its proceedings.

Clause 46 empowers the Tribunal to make regulations with the previous approval of the Central Government. Such regulations may *inter alia* be made in regard to the award of costs reference of any question to a member or officer of the Tribunal for report, the right of audience, the scale of fees, etc.

Clause 47 provides for exhibition of timings of trains and table of fares at every station.

Clause 48 provides for issue of tickets, the particulars to be given on each ticket and also provides for display of hours at station during which tickets may be issued.

Clause 49 lays down that the ticket shall be deemed to have been issued subject to the availability of accommodation in the class and for the train for which it is issued and provides for refund of difference of fare if the journey is performed in lower class.

Clause 50 provides for cancellation of ticket and refund therefor.

Clause 51 prohibits the transfer of tickets issued in the name of a person

Clause 52 provides for exhibition of pass and ticket during the journey or at the end of journey and surrender thereof.

Clause 53 prohibits the entry and travelling in any carriage without proper pass or ticket.

Clause 54 provides for the manner in which the person suffering from infectious or contagious disease may enter or travel in a carriage.

Clause 55 empowers a railway administration to fix the maximum number of passengers which may be carried in each compartment.

Clause 56 empowers a railway administration to earmark compartments, berths or seats in every train for exclusive use of females.

Clause 57 enjoins on a railway administration a duty to provide and maintain efficient means of communications between passengers and the railway servants in charge of the train.

Clause 58.—Sub-clauses (1) and (2) empower the Central Government to make rules regarding carriage of passengers and their luggage under Chapter VIII. The matters in respect of which rules may be made are enumerated in sub-clause (2).

Sub-clauses (3) and (4) empower the Central Government to provide for punishment for contravention of rules made under this clause and impose an obligation on railway administration to allow the inspection of such rules free of charge.

Clause 59 imposes an obligation on every railway administration to maintain the rate-books or other documents relating to rates and make them available for reference to any person without payment of any fee.

Clause 60 empowers railway administration to impose conditions with respect to receiving forwarding, carrying or delivering of goods and maintenance of a copy thereof at each station where goods are received for carriage and make is available for reference of any person without payment of any fee.

Clause 61 provides for risk rates at which goods may be entrusted to railway for carriage.

Clause 62 provides for execution of a forwarding note by a person entrusting goods for carriage by railway.

Clause 63.—Sub-clause (1) imposes an obligation on railway administration to issue railway receipt for the goods entrusted to it.

Sub-clause (2) lays down the circumstance under which the railway administration shall not be responsible for correctness of weight, description or classification or number of packages mentioned in railway receipt.

Clause 64.—Sub-clause (1) provides for delivery of a statement or description of goods by owner, consignee or endorsee to a railway servant.

Sub-clause (2) empowers the railway administration to refuse to accept the goods in the circumstances mentioned therein.

Sub-clause (3) empowers the railway administration to charge the highest rate for any class of goods in cases mentioned therein.

Sub-clauses (4), (5) and (6) empower the railway administration to charge the rate not exceeding double the highest rate for any class of

goods in case the statement delivered under sub-clause (1) is materially false and examination of goods at the cost of the owner, etc.

Clause 65 lays down the manner of carriage of dangerous or offensive goods by railway.

Clause 66 provides that the railway shall not carry any animal suffering from infectious or contagious disease.

Clause 67 empowers the railway administration to carry goods or to deviate the route under the circumstances mentioned therein.

Clause 68 prohibits a railways administration from giving undue or unreasonable preference in favour of any particular person or traffic.

Clause 69.—Sub-clause (1) empowers the Central Government to give directions to the railway administration with regard to—

(*a*) special facilities for the carriage of goods consigned by or to the Central Government or the State Government or any other goods;

(*b*) the route or the rate at which any goods may be carried; and

(*c*) to restrict or refuse acceptance of any goods at or to any station.

Sub-clause (2) provides that an order under sub-clause (1) shall be in force for one year and may be renewed for a period not exceeding one year at a time.

Clause 70 empowers the Central Government to fix the maximum carrying capacity of a wagon or truck.

Clause 71 provides for levy of punitive charge for overloading a wagon.

Clause 72 provides for passing of property in the consignment covered by a railway receipt.

Clause 73 lays down the right of stoppage in transit by consignor as an unpaid vendor and right of railway administration for unpaid freight.

Clause 74 provides for delivery of the consignment on surrender of railway receipt.

Clause 75 provides for the manner in which delivery of consignment or sale proceeds may be made where two or more persons claim the same.

Clause 76 gives right to railway administration to re-measure, re-weigh or re-classify any consignment and re-calculate the freight and other charges and to collect any amount that has been omitted.

Clause 77 provides for weighment of consignment at the request of the consignee or the endorsee and the circumstances under which such weighment may not be permitted.

Clause 78 absolves the railway administration from liabilities for delivery of consignment on production of railway receipt.

Clause 79 provides for open delivery of consignment if received in damaged condition.

Clause 80 lays down that the consignee or the endorsee shall take delivery of the consignment or part thereof and in case of failure to take delivery wharfage charges may be levied.

Clause 81 provides for detention of consignment, part thereof or any other consignment of a person from whom any charges are recoverable by a railway administration and the manner of disposal of such consignment and rendering the surplus of sale proceeds to the person entitled thereto.

Clause 82 provides for treating certain consignments as unclaimed and the manner of disposal of such consignments and rendering the surplus of sale proceeds to the person entitled thereto.

Clause 83 provides for disposal of perishable consignment in the circumstances mentioned therein.

Clause 84 lays down that right of sale under clauses 81, 82 and 83 shall not be a bar to the recovery of freight or other charges, etc., by railway administration by suit.

Clause 85.—Sub-clauses (1) and (2) empower the Central Government to make rules for carrying out the purposes of Chapter IX. The matters in respect of which rules may be made by the Central Government are enumerated in detail in sub-clause (2). Sub-clauses (3) and (4) empower the Central Government to provide for punishment for contravention of rules made under this clause and impose an obligation on railway administration to allow the inspection of such rules free of charge.

Clause 86 defines certain words and expressions used in Chapter X.

Clause 87.—Sub-clause (1) empower the Central Government to declare a station to be a notified station for the purposes of removing consignment without delay under the circumstances specified therein.

Sub-clause (2) lays down the manner of giving notice of goods carried to a notified station.

Sub-clause (3) provides that goods not removed from a notified station within seven days from the termination of transit may be sold under sub-clause (1) of clause 88 by public auction.

Sub-clause (4) provides that if the goods to be sold include essential commodities, the copy of statement may be sent to the representative of the Central Government, the State Government and the District Magistrate within whose local limits such notified station is situated.

Clause 88 provides for the manner of disposal of goods not removed from notified stations.

Clause 89.—Sub-clause (1) lays down that railway administration may retain the freight and other charges and render the surplus, to the person entitled thereto.

Sub-clause (2) provides that realisation of freight and other charges by public auction of the goods shall not bar recovery by suit of freight and other charges by railway administration.

Sub-clause (3) provides that any goods sold under sub-clause (1) shall vest in the buyer or the transferee free from all encumbrances.

Clause 90 empowers the Central Government to make rules for the purposes of Chapter X. The matters in respect of which such rules may be made are enumerated in sub-clause (2).

Clause 91 provides that a railway administration shall be responsible for the loss, destruction, damage, etc., of any consignment arising from any cause except the causes mentioned therein.

Clause 92 lays down the responsibility of the railway administration in case the goods are loaded or delivered at a siding not belonging to a railway administration.

Clause 93 lays down that a railway administration shall not be responsible for any destruction, deterioration or damage of goods carried in open or defective vehicles at the request of the consignor.

Clause 94 lays down that a railway administration shall not be liable for any loss, destruction, etc., for delay or detention in transit for the reasons beyond the control of railway administration or without negligence on its part.

Clause 95 lays down that in case of traffic passing over railways in India and railways in foreign country the railway administration shall not be liable for any loss, destruction, etc., unless such loss has taken place over the railways of the railway administration.

Clause 96 absolves a railway administration from responsibility in the absence of negligence or misconduct on its part for any loss, destruction, etc., of the consignment carried at owner's risk rate.

Clause 97 provides for the responsibility of railways in cases of consignments which are in defective condition or are defectively packed.

Clause 98 lays down the nature of responsibility of railway administration after termination of transit.

Clause 99 deals with the responsibility of the railway administration for any loss, destruction, etc., of luggage.

Clause 100 absolves the railway administration of its responsibility for any loss destruction or injury to animal arising from fright or restiveness of the animal or from overloading of wagon by the consignor.

Clause 101 provides for exoneration from liability of railway administration in cases specified therein.

Clause 102 lays down the extent of monetary liability of the railways in respect of loss, destruction, damage, etc., of a consignment.

Clause 103 provides for examination by railway administration of goods of which value has been declared.

Clause 104 provides the railway administration to which and the period within which the notice of claim for compensation or refund of overcharge shall be given for loss, destruction, etc., of the goods carried by railway or for overcharge.

Clause 105 lays down the railway administration against whom and the court where suit for damages, etc., of goods may be filed.

Clause 106 absolves the railway administration of its responsibilities and bar suit against it in cases the claim has been paid to a person on production of railway receipt.

Clause 107 lays down the railway administration against which and the court where the suit for loss of life or personal injury of a passenger may be filed.

Clause 108 provides that burden of proof regarding monetary loss in suits for compensation for any loss, destruction, etc., lies on the person claiming compensation.

Clause 109 deals with the liability of a railway administration in respect of accidents at sea.

Clause 110 empowers the Central Government to make rules to carry out the purposes of Chapter XI. The matters in respect of which the rules shall be made by the Central Government are enumerated in sub-clause (2).

Clause 111.—Sub-clause (1) imposes an obligation on the station master or the railway servant in charge of the section where any railway accident takes place to give a notice of such accident to the District Magistrate, Superintendent of Police, etc.

Sub-clause (2) imposes an obligation on the railway administration to give a notice of such accident to the State Government and the Commissioner.

Clause 112 empowers the Commissioner to hold inquiry into any railway accident resulting in the loss of human life or grievous hurt to a passenger or serious damage to railway property.

Clause 113 provides that in cases where the Commissioner does not hold an inquiry under clause 112 the same may be held by the railway administration.

Clause 114 empowers the Commissioner with the powers of the civil court under the Code of Civil Procedure, 1908 in respect of the matters enumerated therein.

Clause 115 protects the person against civil or criminal procedings in respect of any evidence given by him in an inquiry before the Commissioner.

Clause 116 deals with the notice of the inquiry the procedure to be followed and the preparation of the report.

Clause 117 provides that no inquiry or investigation to be made if the Commissioner of Inquiry is appointed under the Commission of Inquiry Act, 1952 to inquire into any accident, etc.

Clause 118 provides for an inquiry by the railway administration in accidents other than those mentioned in clause 111.

Clause 119 imposes an obligation on the railway administration to send a return of accidents to the Central Government.

Clause 120 empowers the Central Government to make rules to carry out the purposes of Chapter XII. The matters in respect of which rules

shall be made by the Central Government are enumerated in detail in sub-clause (2) of this clause.

Clause 121 deals with the various words and expressions used in Chapter XIII.

Clause 122 provides for the extent of liability of the railway administration in case of death or injury to a passenger or damage to his goods in an accident.

Clause 123 provides for the appointment of Claims Commissioners.

Clause 124 lays down the persons who can make an application for compansation under clause 122 and the time limit within which such application may be made.

Clause 125 provides for giving interim relief by railway administration in case of accidents.

Clause 126 provides for the procedure to be followed and powers to be exercised by the Claims Commissioner.

Clause 127 empowers the Claims Commissioner to decide the question as to the liability of the railway administration to pay compensation and the amount thereof and the person entitled to receive the same.

Clause 128 lays down the procedure to be followed and compensation to be paid by the Claims Commissioner in case of death of a passenger in an accident.

Clause 129 provides for direction by the Claims Commissioner for medical examination of persons injured in an accident.

Clause 130 provides for the manner in which the rates of compensation payable in respect of injury, compensation for any loss of goods shall be determined by the Claims Commissioner.

Clause 131 imposes an obligation on railway administration to deposit the amount of compensation with the Claims Commissioner and payment thereof by the Claims Commissioner to the claimants.

Clause 132 provides for an appeal to the High Court against the order of the Claims Commissioner and the limitation therefor and the finality of the order of the Claims Commissioner.

Clause 133 saves the right of a person to claim compensation recoverable under any other law.

Clause 134 empowers the Central Government to make rules for carrying out the purposes of Chapter XIII. The matters in respect of which rules shall be made by the Central Government are enumerated in detail in sub-clause (2) of this clause.

Clause 135 deals with the definition of certain expressions used in Chapter XIV.

Clause 136 provides that this Chapter shall not apply to a railway servant to whom the Factories Act, 1948 or the Mines Act, 1952 or the Merchant Shipping Act, 1958 applies.

Clause 137 and 138 provide for limitation of hours of work and periodical rest for various categories of railway servants.

Clause 139 lays down that a railway servant shall remain on duty until he is relieved.

Clause 140 deals with the appointment of the supervisions of railway labour and their duties.

Clause 141 empowers the Central Government to make rules for carrying out the purposes of Chapter XIV. The matters in respect of which rules are to be made by the Central Government are enumerated in sub-clause (2).

Clause 142 provides for punishment for travelling or attempting to travel fraudulently without a pass or ticket.

Clause 143 provides for levy of excess charge and fare for travelling proper pass or ticket or beyond authorised distances and for punishment in case of refusal or failure to pay fare and excess charge.

Clause 144 empowers the railway servant to remove persons from railway on failure or refusal to pay fare and excess charge.

Clause 145 provides for execution of bond for good behaviour in cases mentioned therein.

Clause 146 provides for punishment for interfering with means of communication in a train.

Clause 147 provides for penalty for unauthorised sale or transfer of ticket.

Clause 148 provides for penalty for unauthorised carrying on of business of procuring and supply of railway tickets.

Clause 149 prohibits unauthorised hawking and begging on railway and punishment therefor.

Clause 150 provides for punishment for drunkenness or nuisance on a railway.

Clause 151 provides for punishment for obstruction of railway servant while on duty.

Clause 152 provides for punishment for trespass upon a railway.

Clause 153 and 154 respectively provide for punishment for making false claim in case of injury or death of passenger or loss, damage, etc. of goods.

Clause 155 and 156 respectively provide for punishment for maliciously wrecking or attempting to wreck a train or for causing any damage or destruction of railway property.

Clause 157 provides for punishment for maliciously hurting or attempting to hurt persons travelling by railway.

Clause 158 and 159 respectively provide for punishment for endangering safety of persons travelling by railway by wilful act or omission or negligent act or omission.

Clause 160 provides for punishment for a person for refusing to leave a reserved compartment in which no berth or seat is reserved for him or for resisting lawful entry into a reserved compartment.

Clause 161 and 162 respectively provide for punishment for entering a carriage in motion and travelling on roof, steps or engine of a train.

Clause 163 provides for punishment for altering or defacing a pass or ticket.

Clause 164 provides for punishment for contravention of any provision of Chapter XIV or rules made thereunder.

Clause 165 provides for punishment for driver or conductor of any vehicle on the premises of a railway for disobeying directions given by the railway servant.

Clause 166 provides for punishment for a person opening or breaking a level crossing gate.

Clause 167 lays down the punishment for cattle-trespass.

Clause 168 lays down the punishment for any person negligently driving or leading a vehicle across an unmanned level crossing.

Clause 169 provides for punishment for entering a carriage or other place reserved for females.

Clause 170 lays down punishment for any person furnishing false account of goods on requisition by railway servant.

Clauses 171 and 172 respectively provide for punishment for unlawfully bringing dangerous and offensive goods on a railway.

Clause 173 provides for punishment for defacing public notices on railway.

Clause 174 prohibits smoking in a train when objected to by a co-passenger and provides punishment therefor.

Clase 175 provides for punishment for travelling on a railway by person suffering from infectious or contagious disease in contravention of the provisions of this Bill.

Clause 176 provides execution of bond for good conduct by the guardian of a person under the age of twelve years in cases of offences mentioned therein.

Clauses 177, 178 and 179 provide for levy of penalty on non-Government railways, mode of recovery of the penalty and that levey of penalty shall not preclude the Central Government from resorting to any other action against such railway.

Clause 180 provides for punishment for a railway servant for drunkenness on duty.

Clause 181 provides for punishment for a railway servant on duty for abandoning train without authority.

Clause 182 provides for punishment for any person including a railway servant for causing obstruction to trains.

Clause 183 provides for punishment for railway servants on duty for endangering the safety of any person travelling on a railway.

Clause 184 lays down the punishment for a railway servant unnecessarily obstructing level crossing.

Clause 185 provides for punishment for a railway servant furnishing false returns.

Clause 186 provides for punishment for a railway servant for making a false report in claims inquiry.

Clause 187 provides for punishment for a railway servant allowing persons suffering from infectious or contagious disease to travel without making arrangements.

Clause 188 provides for punishment for a railway servant omitting to give notice of accident.

Clause 189 provides for arrest of a person without warrant for the offences mentioned therein.

Clause 190 provides for power of arrest of person likely to abscond or not giving correct name or address.

Clauses 191 and 192 respectively provide for the court for trying the offences and the place of trial.

Clause 193 empowers the railway administration to provide or maintain any mode of transport for the purposes mentioned therein.

Clause 194 provides for an exemption to the railway administration from the payment of tax to any local authority unless directed by the Central Government.

Clause 195 provides for exemption to the railway administration from the payment of tax to any local authority in respect of advertisement made on any part of the railway unless directed by the Central Government.

Clause 196 provides that no civil court shall entertain any suit or proceeding for anything done or action taken or omission made by the Central Government or by the railway administration.

Clause 197 provides that no suit, prosecution or other legal proceedings shall lie against the Central Government, railway administration, railway servant or any other person for anything done in good faith or intended to be done in pursuance of this Bill.

Clause 198 provides for restriction on attachment of rolling stock, machinery, plant, tools, etc., for the purposes of traffic on a railway in execution of any decree.

Clause 199 lays down that the railway servants shall be deemed to be public servants for the purposes of Chapter IX and section 409 of the Indian Penal Code, 1860.

Clause 200 provides that no railway servant can purchase or bid for any property put to auction by the railway or engage in any trade.

Clause 201 provides for the procedure to be followed by a railway servant for delivery of property detained by him to railway administration.

Clause 202 provides that entries in the records or other documents of the railway administration shall be admitted in evidence and the method of their proof.

Clauses 203 and 204 provide for the manner of service of notice on the railway administration and by the railway administration respectively.

Clause 205 provides that where a notice, etc., is served by post it shall be deemed to have been served if it was properly addressed and registered.

Clause 206 provides for representation of railway administration in proceedings before Civil, Criminal and other Courts.

Clause 207 empowers the Central Government to exempt any railway from all or any provisions of this Bill.

Clause 208 provides for the matters supplemental to the definition of railway and railway servant.

Clause 209 empowers the Central Government to make rules generally to carry out the purposes of this Bill.

Clause 210 provides that any rule and regulation made under this Bill shall be laid before both Houses of Parliament.

Clause 211 seeks to repeal the Indian Railways Act, 1890 and saves any action taken under the repealed Act.

FINANCIAL MEMORANDUM

The Bill seeks to repeal and re-enact the Indian Railways Act, 1890. The Bill does not provide for the constitution of any new authority nor does it include any new provisions which would involve additional expenditure from the Consolidated Fund of India. The expenses on the administration of the Government railways are separately voted by Parliament and not by virtue of the provisions of the Railways Act. The provisions of the Bill, if enacted and brought into operation, would not, therefore, involve any expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make rules to carry out the purposes of Chapter V regarding opening of railways. The rules to be made, *inter alia,* relate to the duties of railway administration and the Commissioner in regard to the opening of a railway for the public carriage of passengers, arrangements to be made and the formalities to be complied with before opening a railway for the public carriage of passengers, the cases in which and the extent to which the procedures prescribed in this Chapter may be dispensed with.

Clause 46 of the Bill confers powers on the Railway Rates Tribunal to make, with the previous approval of the Central Government, regulations consistent with the Bill and the rules generally. The Tribunal under this clause may make regulations relating to the procedure for the effective discharge of its functions, the award of costs, the reference of any question to a member or an officer of the Tribunal or any other person for report after holding a local inquiry, the right of audience before the Tribunal, the disposal of any proceedings before it and the scale of fees for and in connection with the proceedings before the Tribunal.

Clause 58 of the Bill empowers the Central Government to make rules to carry out the purposes of Chapter VIII. The matters in respect of which such rules may be made, *inter alia,* include reservation of seats or berths in trains, the amount of refund for cancellation of a ticket, the circumstances under which change of names of passengers having reserved seats or berths may be permitted, the carriage of luggage and the conditions for keeping luggage in the cloak rooms, the diseases which are infectious or contagious, conditions subject to which passengers suffering from infectious or contagious diseases may be carried in any train.

Clause 85 of the Bill confers powers on the Central Government to make rules for carrying out the purposes of Chapter IX relating to carriage of goods. The matters in respect of which rules may be made, *inter alia,* relate to the infectious or contagious diseases, the dangerous or offensive goods, rates of penalty charges for overloading, the charges payable for weighment, the manner of delivering a consignment without railway receipt, the manner of delivery of consignment or its sale proceeds to the person entitled thereto, the giving of open delivery and partial delivery certificate and the manner of sale of consignment or part thereof.

Clause 90 empowers the Central Government to make rules for the purposes of Chapter X relating to goods booked to notified stations. The matters in respect of which rules may be made relate to the factors to which the Central Government shall have regard under clause (e) of the first proviso of sub-section (1) of section 87, the form and the manner in which an application be made under sub-section (2) of section 87, the

form in which the statement is required to be exhibited under sub-section (3) of section 87, the manner in which the days of public auction may be notified and the manner of crediting to the railway administration the price of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub-section (3) of section 88.

Clause 110 empowers the Central Government to make rules for carrying out the purposes of Chapter XI relating to the responsibility of the railway administration as carriers. The matters in respect of which rules may be made relate to the manner of packing of goods entrusted to railway administration, the goods for the purpose of sub-clause (3) of section 98 and the amount on the gross weight of the consignment payable by the railway administration for the loss, destruction, etc., of any consignment.

Clause 120 of the Bill confers powers on the Central Government to make rules to carry out the purposes of Chapter XII relating to accidents. The matters in respect of which rules may be made, *inter alia*, relate to the injury to property which may be considered serious, the forms of notice and the particulars of the accident, the manner of signing the notices, the duties of the Commissioner of Railway Safety, railway administration, railway servant, police officer and Magistrate on the occurrence of an accident, the nature of inquiry to be made into the causes of accident, etc.

Clause 134 of the Bill confers powers on the Central Government to make rules to carry out the purposes of Chapter XIII relating to liability of railway administration for death and injury to passenger due to accident. The matters in respect of which such rules may be made relate to remuneration and allowances to be paid to the Claims Commissioner, compensation payable for death, the nature of injuries for which compensation may be paid and the amount of such compensation, the manner in which claims for compensation may be inquired into and determined by the Claims Commissioner, the matters in respect of which persons may be chosen to assist the Claims Commissioner under sub-section (4) of section 126 and the functions of such persons.

Clause 141 of the Bill confers powers on the Central Government to make rules for the purpose of Chapter XIV relating to regulation of hours of work and periods of rest. The matters in respect of which the rules may be made in this Chapter relate, *inter alia*, to the authorities who may declare the employment of any railway servant as essentially intermittent or intensive, the appeals against such declaration, the category of staff that may be specified under sub-clauses (iv), (v) and (vi) of clause (c) of section 135, the authorities by whom exemptions

under sub-section (3) of section 138 may be made, the railway servants or classes of railway servants to whom clause (ii) of sub-section (2) of section 138 apply and the periods of rest to be granted to them and the payment of supervisors of railway labour and their functions.

Clause 210 of the Bill confers powers on the Central Government to make rules generally to carry out the purposes of the Bill.

As the matters in respect of which rules and regulations under the aforesaid provisions are sought to be made are matters of procedure or detail or matters in respect of which it is not practicable to make express provision in the legislation itself, the delegation of legislative power is of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

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